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Board of

The Board of

TRANSPORT COMMISSIONERS FOR CANADA

Judgments, Orders, Regulations, and Rulings

From April 1954 to March 1955-56

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV APRIL 1, 1954 No. 1

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In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge between the British Columbia Electric Railway Company Limited, the Canadian National Railways, the Canadian Pacific Railway Company et al. and the Canada Iron Foundries Limited and the National Iron Corporation Limited on pipe, cast iron and fittings for same, except valves, from Toronto, Ontario, and Trois Rivieres, Que., to points in the Province of British Columbia, effective April 1, 1953.

File No. 40994·44

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*
ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*

Appearances:

K. D. M. SPENCE and G. P. MILLER, for the Canadian Freight Association and Canadian Pacific Railway Company.
A. H. HART, for the Canadian Freight Association and the Canadian National Railways.
HAZEN HANSARD, Q.C., for the Canada Iron Foundries Ltd. and National Iron Corporation Limited.
D. R. MCMASTER, Q.C., for Warden King Limited.
S. BRUCE SMITH, Q.C., for the City of Edmonton and the Edmonton Chamber of Commerce.
J. J. FRAWLEY, Q.C., for the Province of Alberta, the Edmonton Chamber of Commerce and the City of Edmonton.
M. L. RAPOPORT, for Canada Packers Limited and Canadian Canners Limited.

JUDGMENT

WARDROPE, Asst. Chief Commissioner:

This is an application by the Canadian Freight Association for approval by the Board under Part IV of the Transport Act of an agreed charge between the Canadian National Railways, Canadian Pacific Railway, *et al.*, hereinafter

referred to as the Carriers, and Canada Iron Foundries Limited and the National Iron Corporation Limited, hereinafter referred to as the Shippers, for the carriage of pipe, cast iron and fittings for same, except valves from Toronto, Ontario, and Trois Rivieres, Quebec, to the following points in the Province of British Columbia: Prince Rupert, Vancouver and Watson Island, which, hereinafter, I shall refer to as the Coast.

This agreed charge or agreement negotiated and entered into by the parties thereto and as provided for under Part IV of the Transport Act is signed by the Chairman of the Canadian Freight Association on behalf of the participating railways and by signatories for each of the above mentioned Shippers. It has terms and conditions attached whereby *inter alia* the Shippers, in consideration of the rates to be charged, will ship all of their traffic prescribed therein by rail and not ship by any other means of transportation whatsoever. It is further provided and agreed upon as a condition in Paragraph 6 of the conditions attaching to the agreed charge "this agreement shall come into effect on the 1st day of April 1953, or such other date as may be approved by the Board of Transport Commissioners for Canada, and shall continue as to each party hereto until terminated by such party by a three-months' notice in writing effective at the end of one year from the said approval or any time thereafter; provided that should the Board's approval hereof be restricted as to time, the period so specified shall be deemed to be the term hereof."

Also before the Board is an application by Warden King Limited, Montreal, that a charge be fixed for the transport of the same goods to the same destinations as above stated from Montreal at the rate contained in the agreed charge from Toronto and subject to and upon the same terms and conditions as contained in the said agreed charge. These applications were heard at Ottawa on November 9 and 10, 1953, and subsequently on January 7, 1954, a further Hearing took place for the purpose of obtaining a more complete argument and discussion on the legal points involved.

On Monday, the 11th day of January, 1954, the Board issued its Order 82878, approving the agreed charge as of the date of the Order and also fixing the charges requested by Warden King Limited and in the Order stated that reasons for Judgment would be given at a later date.

Although the Board has had before it numerous agreed charges for approval, the present one is the first of its kind and is peculiarly different from all others the Board had dealt with in that its fundamental raison d'être arises out of the provisions of Section 337 of the Railway Act, which Section as an Amendment to the Railway Act was implemented by Board's Order 78040 on January 15, 1951. This Section contains what is commonly referred to as the one-third rule. In short, it provides that where the Railways have a transcontinental (as defined) competitive rate, rates to or from interior points in intermediate territory must not exceed the said competitive rate by more than one-third.

At present there is actually in effect a competitive rate from Toronto to the Coast of $2.39 per 100 lbs. But this rate is not moving any traffic as under it the Shippers named in the agreed charge cannot meet the competition at the Coast on cast iron pipe imported from Overseas directly by ship. As a matter of fact up to May 21, 1952, there were lower specific competitive rates to the Coast from Toronto and Trois Rivieres of $1.17 and $1.25 respectively. These latter rates were cancelled by the Carriers because of the diminishing revenues they caused to interior points under the one-third rule. In short, the Carriers chose to forego the revenue received under them in order to protect their revenues on a greater volume of the same traffic to interior points. It may be noted here that the rates proposed in the agreed charge to the Coast above named are $1.10 from Toronto and $1.18 from Trois Rivieres.

As Mr. H. Arkle, Freight Traffic Manager, Rates & Divisions of the Canadian Pacific Railway, puts it "after the passing of the one and a third rule,

it was necessary for the railways to review all their transcontinental rates and rates on cast iron pipe were found to be at such a level that it was uneconomical for us to maintain the rates having in mind the large volume of pipe that was moving to interior points."

The application was opposed by Counsel who appeared on behalf of the Province of Alberta, the City of Edmonton and the Edmonton Chamber of Commerce.

Counsel for Canada Packers Limited and Canadian Canners Limited appeared as intervenor by leave of the Board and presented legal argument in opposition at the January 7th Hearing.

The Carriers objected to the appearances of the above Counsel, hereinafter referred to as the Respondents, on the grounds that under Section 32(7) of the Transport Act they held no status. The Board, however, heard them subject to the objections.

Counsel for the Province of British Columbia appeared in support of the application.

With this brief background I think we can summarize the pertinent points and will deal with them where necessary.

(1) The present competitive rate ($2.39 per 100 lbs.) will not move the traffic to the Coast.

(2) The Carriers admit that a lower competitive rate such as in the agreed charge would move the traffic. The Shippers stated it was immaterial to them whether the rate was by an agreed charge or a competitive tariff.

(3) The Carriers are unwilling to publish this lower competitive rate because of the immediate impact of the one-third rule as contained in Section 337(2) of the Railway Act which would have the effect of more than off-setting in their over-all revenues any gain they might make under the competitive rate to the Coast.

(4) To avoid the consequence of the one-third rule an agreed charge is made with the Shippers under Part IV of the Transport Act.

(5) One of the points raised in opposition was that the proposed agreed charge offended against the National Freight Rates policy as defined in Section 336 of the Railway Act. Whatever the National Freight Rates policy may have been intended to include, I do not think that there is ambiguity in the language of s.s. 4(*d*) excluding agreed charges authorized by the Board under Part IV of the Transport Act. I do not think it requires any prolonged discussion to reach the conclusion that agreed charges are excepted and must be, by their very nature, from the National Freight Rates policy, as defined. However, in this respect the point was raised that subsection 4(*d*) of Section 336 of the Railway Act excepts "agreed charges authorized by the Board under Part IV of the Transport Act." It was alleged that the word "authorized" is in the past tense and we were asked to determine whether the said exception (*d*) refers to agreed charges which had been authorized as at December 21, 1951, the date of the passage of the amendment to the Railway Act, Chapter 22, of the 1951 Statutes.

It should be noted that in the 1951 amendment Section 332A referred to "Part V" of the Transport Act, 1938, whereas in the Revised Statutes of 1952 the reference is to "Part IV" of the Transport Act. In my opinion it is immaterial whether one looks at the language of the new or that of the old statute the meaning is the same.

The agreement which is being dealt with here was submitted on March 25, 1953, when the old statutes were in force, but we have approved it for effectiveness as from the date of our Order, namely, January 11, 1954, hence it has been approved under the terms of the new Statute.

It should also be noted that both Section 336 of the present Railway Act and Section 332A of the former Act embody a declaration of national policy as to freight rate equalization, subject to certain exceptions, which we have been and are now working out.

The said national policy is an implementation of the recommendation of the Royal Commission on Transportation in its report dated February 9, 1951, wherein at page 125 it stated *inter alia*:

> "It is difficult to conceive of an unqualified statutory rule for equalization. Exceptions to equality must necessarily be permitted in the following cases and other cases which may come to the attention of the Board as the investigation proceeds:
>
> (*d*) Agreed charges authorized by the Board under the Transport Act;"

It is quite clear therefrom that agreed charges cannot be subjected to the principles of freight rate equalization—an opinion which I share; and by the implementation of the recommendation, qualified as it was, it is equally clear that Parliament was fully cognizant of this fact by inserting the same exception into the amending Statute and thereby removing agreed charges from the scope of the national freight rates policy.

Finally, and without wishing to labour the point, as there were no agreed charges "authorized" (in the past tense) under Part IV of the Transport Act at the time the Revised Statutes of 1952 came into effect, the inclusion of subsection (*d*) for the purpose of excluding only previously authorized agreements would be meaningless and unnecessary.

With these considerations in mind, I am of the opinion that exception (*d*) of Section 336 applies to all agreed charges—past, present and future.

(6) The Respondents also contended that Section 337 of the Railway Act is subsequent special legislation which overrides the prior legislation of the Transport Act with respect to agreed charges and that it is special legislation designed to correct an evil. However to this it may be said that all legislation is to be considered remedial but it does not follow that all legislation becomes special legislation. I would seriously question that Section 337, embodied in the general legislation of the Railway Act, could be elevated to the status of special legislation. But assuming that it can be, Parliament at the time it passed it was well aware of the existence of the Transport Act and of the opening words therein of Section 32, namely, "notwithstanding anything in the Railway Act or in this Act but subject to this Section—". Here in Part IV of the Transport Act (agreed charges) is, in my opinion, very definitely special legislation. It authorizes under proper circumstances a definite departure from the general provisions of the Railway Act. Lord Macmillan of the Judicial Committee of the Privy Council stated in *C.N.R. et al.* vs. *Canada Steamship Lines, Ltd. et al.*, 58 C.R.T.C. 113, at page 120: "The opening words of Section 35(1) are intended only to indicate that agreed charges may be sanctioned notwithstanding the general provisions as to the universality of charges." Under the revision of 1952, Section 35(1) is now Section 32(2) of the Transport Act. So unless there is the clearest language to the contrary and I cannot find it in the Railway Act or Section 337 thereof, I do not see how even granting Section 337 is special and subsequent legislation, it can override by implication or otherwise the clear language in Section 32(1) of the Transport Act above referred to. And if it is not special but merely general later legislation as I think it is, there is the general rule of statutory interpretation, Craies on Statute Law, 4th Edition, page 321 "that prior statutes are held to be repealed by implication by subsequent statutes if the two are repugnant, is said not to apply if the prior enactment is special and the subsequent enactment is general, the general rule of law being, as stated by Lord Selborne in *Seward* v. *Vera Cruz* (f), "that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation,

you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so."

(7) The Respondents maintain that the object to be secured by the agreed charge can be attained by a competitive tariff. They also contend that the Board in considering the effect the making of the agreed charge would have on the net revenue of the Carriers should only look at the immediate revenue to be derived from the movement of the traffic, namely, whether it is of itself compensatory.

The object to be secured has a primary and secondary phase. It may be said that the primary object is to secure the traffic and to meet Overseas competition at the Coast which, but for the secondary phase could be achieved by a competitive tariff rate; the secondary phase is that if the competition is met by competitive tariff the one-third rule must be observed. With the dual objective so clearly stated as it has been in this case, it is quite obvious that both phases are complementary, hence in considering the effect upon the net revenue of the Carriers we are compelled to consider the effect on the overall revenue derived from this type of traffic. Under Section 32(15) of the Transport Act we are given the widest discretion to have regard for all considerations that appear to be relevant. I consider it would be difficult for the Board to shut its eyes to the effect, not in law but in fact, Section 337 would have on the revenues of the Carrier.

I am satisfied that if the rates proposed in the agreed charge were established by a competitive tariff publication, the incidence of applying the one-third rule would cause the Carriers to incur a greater loss than gain in revenue. By the fact that the Carriers removed the former competitive rate when the one-third rule became operative, they have demonstrated they will not establish a low competitive rate and be thus subjected to the provisions of Section 337. We have heard the evidence of the Shippers that without the assistance of a competitive rate the manufacture of the product for use at the Coast cannot be undertaken, hence the Railways would lose, and have lost, the carriage of the traffic upon which some net revenue could be earned. To forbid the execution of the agreed charge negotiated between the parties, coupled with the unwillingness of the Railways to substitute a competitive rate, in no way promotes the interests of the objecting parties, and would seem to be beneficial only to the foreign producer who would have practically a monopoly of the consuming market. The object of the agreed charge, insofar as the Carriers are concerned, is the promotion of revenue traffic with the safeguarding of revenues. There is no guarantee to the Carriers that this will be accomplished unless the Shipper is able to secure a share of the market—in which event the Railway will have secured the carriage of the goods. In view of these considerations, I do not think that the Board can be moved to find that the object to be secured can, having regard to all relevant considerations, be adequately secured by means of a competitive tariff of tolls under the Railway Act.

(8) Alternatively it was argued on behalf of the Respondents that this proposed agreed charge established for the purpose of meeting competition must of itself be or become a competitive rate within the meaning of Section 337 of the Railway Act. Further that subsection 12 of Section 32 of the Transport Act, which provides that all agreed charges when approved shall be published in the manner provided by Section 333 of the Railway Act of itself is sufficient to establish, upon such publication the agreed charge as an ordinary competitive rate subject to the one-third rule.

The first part of the above argument presupposes that a competitive rate and an agreed charge are one and the same; that stripped of all its trappings the competitive element contained in the agreed charge before us with its transcontinental features makes it simply a competitive rate. It was urged that force

is given to this viewpoint in that Parliament by enacting Section 337 of the Railway Act intended there should be no competitive rates of any kind or sort to the West Coast unless the intermediate points received the advantages therefrom. But again we must look at the language of the Railway Act and the Transport Act.

In my opinion, Parliament has differentiated between a competitive rate and an agreed charge. Under Section 32(2) of the Transport Act the Board is not to approve an agreed charge if in its opinion a competitive tariff of tolls would adequately secure the object of the agreement; and in Section 336 of the Railway Act, two of the exceptions named in subsection 4 are (c) competitive rates and (*d*) agreed charges. Then in Section 337 itself, which immediately follows, competitive tariffs of tolls only are referred to. I do not think in view of this language that Parliament can be said to consider a competitive toll one and the same as an agreed charge regardless of the competitive characteristics the latter in some instances may reflect.

That there is a distinction to be drawn between a competitive tariff and an agreed charge, sufficient alone to warrant rejection of the argument, is supported by the fact that Section 337 of the Railway Act requires specifically that the tariff naming the competitive rate to the Coast "shall provide" for the application of the competitive rate, plus one-third, to the territory immediate to the Coast. Hence the transcontinental competitive tariff now so provides making the application of the superimposed one-third basis an automatic provision and thereby open to all Shippers who may wish to forward traffic to the territory where the one-third scheme applies. All that a Shipper is required to do is to ship his goods, in whatever quantities he may choose, without any other requirement.

On the other hand, an agreed charge is a contract negotiated between Carrier and Shipper, applying only to the traffic of the Shipper with whom it was negotiated in such quantities as may be set out therein. It is the obligation of the Shipper to forward the specified quantity of traffic as the contract contemplates.

No other Shipper may participate in an agreed charge unless he becomes, or is made, a party to the contract. Such Shippers who thus become party thereto are usually applicants for fixed charges. I find nothing in either the Railway Act or the Transport Act which would empower the Board to arbitrarily fix a charge for an applicant therefore on the basis of one and one-third the contract rate.

Even if Section 337 of the Railway Act were interpreted to have application equally to agreed charges and transcontinental competitive rates, it would be necessary that a contract, in its primary negotiation stage, be similarly negotiated with Shippers in respect of every point in the intermediate one-third basis territory. This would seem to be necessary inasmuch as the agreed charge cannot be established as an open rate for use by any Shipper as he may choose to use it, such as occurs with the competitive tariff.

In the alternative, if it were intended that a Shipper might apply to the Board for a fixed charge on the one-third basis, I think it would be necessary for the Statute to say so in unmistakable language.

It seems to follow that if, as has been stated in this case, the Carrier is unwilling to meet the Coast competition because of the impact of the one-third rule, the Carrier would not enter into an agreed charge if the Board could impose the one-third rule by way of fixing a charge.

If we adopted the principle of applying the one-third rule to fixed charges we would have no grounds to approve an agreed charge because the object to be attained in this case could be secured by a competitive tariff. Under the provisions of subsection (2) of Section 32 of the Transport Act we would be compelled to refuse approval.

With regard to the second part of the above argument that publication thereof under Section 333 of the Railway Act establishes such agreed charge as a competitive rate, I fail to see any force in it. Section 331 names the tariff of tolls the Company is authorized to use. Section 333 provides the method and manner in which freight tariffs may be filed and published and in subsection 4 provides for the filing of competitive rate tariffs. Section 334 deals further with the filing of competitive tariffs.

I can find no alchemy of words in Section 333 that will upon filing and publishing an agreed charge in accordance therewith transmute its characteristics. It is and must remain an agreed charge as defined in Section 2(1)(*a*) of the Transport Act, i.e. "agreed charge means a charge agreed upon between a carrier and shipper as in this Act provided and includes the conditions attached thereto."

(9) Lastly we are invited to use the wide discretionary powers given to us by the Transport Act as to relevant considerations and refuse approval if no other ground for refusal presents itself. I would interpret this as meaning that we are asked to legislate the one-third rule into the statutory provisions respecting agreed charges. I do not think that these powers, wide as they may be, can extend to arbitrarily refusing what in our opinion Parliament has permitted. While I think it is beyond question that the proposed agreed charge is designed to overcome the impact of the restricting force of Section 337, there is nothing in the legislation involved, either by direct language or by implication, which is a bar to the adoption of the procedure involved in the present application. Under these circumstances the agreed charge has been lawfully made and we cannot set any discretionary powers we may have against it. For the above reasons we approved the agreed charge above mentioned and Order No. 82878 of the 11th January issued. The Board being satisfied as to its merits under Section 32(8) of the Tarnsport Act also fixed the same charge for application to the traffic of Warden King Limited as referred to in the said Order.

In conclusion I may say that this matter, unique as it is, has not been decided without difficulties. Quite obviously there had to be a more than usual weighing and resolving of factors. On balance, however, and for the reasons given, we consider that approval of the agreed charge could not be withheld.

HUGH WARDROPE.

OTTAWA, February 11, 1954.

I concur:
A. SYLVESTRE.

I concur:
FRANK M. MACPHERSON.

ORDER No. 83249

In the matter of the application of Northern Transportation Company Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·33

MONDAY, the 1st day of March, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 282 be issued to the Applicant licensing, for the period of one year commencing February 9, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On rivers, streams, lakes and other waters within the watershed of the Mackenzie River, except Fort Nelson River, Peace River and Liard River (other than the Fort Simpson Airport).

Vessel Name	*Official Registry No.*	*Gross Tonnage*
M/V Radium Queen	159001	108.37
M/V Radium King	159002	115.34
M/V Radium Cruiser	171801	27.00
M/V Radium Express	171802	40.48
M/V Radium Lad	170773	40.37
M/V Great Bear	170938	153.00
M/V Radium Prince	175123	42.07
M/V George Askew	175156	127.19
M/V Slave	176218	69.45
M/V Peace	192899	69.45
M/V Clearwater	176217	69.45
M/V Radium Gilbert	177784	296.79
M/V Radium Charles	179097	230.05
M/V Radium Scout	179098	23.18
M/V Radium Yellowknife	190334	235.45
M/V Niangua	192908	21.23
M/V Alcan	195230	51.23
M/V Slave River	152590	50.31
Radium Barge No. 1	170774	356.39
Radium Barge No. 2	173373	339.63
Radium Barge No. 3	170775	103.18
Radium Barge No. 4	170776	236.88
Radium Barge No. 5	170777	67.37
Radium Barge No. 6	170778	66.18
Radium Barge No. 10	171816	71.15
Radium No. 50	Applied for	37.27
Radium No. 51	192909	37.27
Radium No. 52	Applied for	37.27
Radium No. 75	179089	64.63
Radium No. 80	173706	192.44
Radium No. 100	175125	121.11
Radium No. 101	179088	107.49
Radium No. 102	190806	105.85
Radium No. 250	194659	199.29

Vessel Name	Official Registry No.	Gross Tonnage
Radium No. 251	194660	199.29
Radium No. 252	Applied for	199.29
Radium No. 253	195436	307.76
Radium Na. 254	195437	307.76
Radium No. 300	175126	265.89
Radium No. 301	175127	265.89
Radium No. 302	175128	265.89
Radium No. 303	179099	168.78
Radium No. 304	179100	168.78
Radium No. 400	175153	227.32
Radium No. 402	175155	406.60
Radium No. 403	176215	227.32
Radium No. 404	176216	227.32
Radium No. 405	177785	220.83
Radium No. 406	177786	220.83
Radium No. 407	177787	220.83
Radium No. 408	177788	220.83
Radium No. 409	177789	220.83
Radium No. 410	177790	220.83
Radium No. 411	178031	220.83
Radium No. 412	178032	220.83
Radium No. 413	178033	220.83
Radium No. 415	178035	220.83
Radium No. 416	179422	220.83
Radium No. 417	179423	220.83
Radium No. 418	179424	220.83
Radium No. 419	179425	220.83
Radium No. 420	179426	220.83
Radium No. 421	179427	220.83
Radium No. 422	179428	220.83
Radium No. 423	179429	220.83
Radiim No. 424	190807	220.83
Radium No. 425	190808	220.83
Radium No. 426	190809	220.83
Radium No. 427	190810	220.83
Radium No. 428	190811	220.83
Radium No. 429	190812	220.83
Radium No. 430	190813	220.83
Radium No. 432	190815	220.83
Radium No. 433	190816	220.83
Radium No. 434	190817	220.83
Radium No. 435	190818	220.83
Radium No. 500	Under construction	280.00
Radium No. 501	Under construction	280.00
Radium No. 502	Under construction	280.00

2. On Bear River, N.W.T., between Fort Norman and Franklin, inclusive.

Vessel Name	Official Registry No.	Gross Tonnage
Radium Franklin	194887	118.81
Radium 76	194888	77.14
Radium 77	194889	77.14
Radium 78	194890	77.14
Radium 103	194891	106.00

3. Between Waterways, Alberta, and all ports and places on Lake Athabaska.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Radium No. 350	195242	213.41
Radium No. 351	195243	213.41
Radium No. 352	195244	213.41

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83270

In the matter of the application of Charles Sanders, hereinafter called the "Applicant", for a licence under section 10 of The Transport Act:

File No. 42076·45

WEDNESDAY, the 3rd day of March, A.D. 1954.

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 283 be issued to the Applicant licensing for the period of one year commencing February 9, 1954, the following ships to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and North thereof:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
S.T. Barge 102	171641	141
S.T. Barge 103	173702	141
S.T. Barge 150	157161	160

FRANK M. MACPHERSON,
Commissioner.

ORDER No. 83287

In the matter of the application of F. A. Price Coal Company of Montreal, P.Q., dated January 11, 1954, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 14 as approved by the Board:

File No. 40994·16

FRIDAY, the 5th day of March, A.D. 1954.

F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas F. A. Price Coal Company has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 14, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 14 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said Agreed Charge, shipped by F. A. Price Coal Company from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

FRANK M. MACPHERSON,
Commissioner.

ORDER No. 83288

In the matter of the application of F. A. Price Coal Company of Montreal, P.Q., dated January 13, 1954, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 11 as approved by the Board:

File No. 40994·3

FRIDAY, the 5th day of March, A.D. 1954.

F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas F. A. Price Coal Company has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 11, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 11 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said Agreed Charge, shipped by F. A. Price Coal Company from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

FRANK M. MACPHERSON,
Commissioner.

ORDER No. 83291

In the matter of the application of the Abitibi Navigation Company, Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·18

FRIDAY, the 5th day of March, A.D. 1954.

F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 284 be issued to the Applicant licensing for the period of one year commencing January 15, 1954, the following ship to transport goods by water between all ports and places in Canada in the areas designated herein:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Wahcondah	102577	1575

Between all ports or places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

FRANK M. MACPHERSON,
Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JANUARY, 1954

Railway Accidents	183	Killed	8	Injured	212
Level Crossing Accidents ...	69	Killed	32	Injured	90
Total.....	252		40		302

	Killed	*Injured*
Passengers	—	35
Employees	2	178
Others	38	89
Total.....	40	302

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NOVA SCOTIA
—	1	Auto truck ran into side of train. Licence: N.S. G-12615.
—	6	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 4-6151.
		NEW BRUNSWICK
—	1	Auto truck ran into side of train. Licence: N.B. C-24-088.
—	2	Automobile ran into side of engine backing over crossing. Licence: N.B. 28-557.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 4-013.
		QUEBEC
—	1	Automobile drove onto crossing in front of snowplow and was struck. Licence: Que. T-16787.
—	2	Auto truck ran into side of train. Licence: Que. F-35203.
3	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-9128.
1	—	Automobile skidded into side of train. Licence: Que. 239214.
1	—	Automobile ran into side of train. Licence: Que. 121-325.
—	1	Auto truck ran into side of train. Licence: Que. F-71131.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-88129.
		ONTARIO
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 61240-C.
—	1	Automobile ran into side of car being pushed over crossing. Licence: Ont. 7335-P.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-23599.
—	1	Automobile ran into side of train. Licence: Ont. P-4113.
—	1	Auto truck struck track motor car. Licence: Ont. 62-121-B.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 170-N-8.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CR-336.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 77-K-41.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 745-K-3.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. BP-589.
—	4	Automobile ran into side of snowplow. Licence: Ont. 76-N-90.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. GE-800.
—	1	Automobile drove onto crossing in front of approaching train and was struck: Licence not given.
—	1	Automobile ran into side of engine. Licence: Ont. 5393-J.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-26539.
1	—	Automobile ran into side of train. Licence: Ont. 404-W-6.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 50521-C.

Killed	*Injured*	
8	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KS-792.
—	2	Automobile drove onto crossing and was struck by track motor car. Licence not given.
—	2	Auto truck ran into side of train. Licence: Ont. 32-526-C.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8664-J.
—	1	Auto truck ran into side of train. Licence: Ont. C-47015.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 538-V-9.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. O-4530.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. L-4482.
1	—	Auto truck drove onto crosisng in front of approaching train and was struck. Licence: Ont. 44009-B.
—	3	Automobile ran into side of cars being pushed over crossing. Licence: Ont. 3-U-362.
—	1	Automobile ran into side of train. Licence: Ont. 765-W-9.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 708-T-7.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9439-A.
—	1	Automobile ran into side of train. Licence: Ont. S-5643.
		MANITOBA
—	3	Auto truck ran into side of train. Licence: Man. DC-1-741.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 6-W-617.
1	1	Auto truck ran into side of train. Licence: Man. T-25002.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Man. T-3200.
—	1	Automobile ran into side of train. Licence: Man. 2-J-438.
—	3	Automobile ran into side of train. Licence: Man. 8-J-746.
3	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 2-M-276.
—	1	Automobile ran into side of standing train. Licence: Man. 5-W-659.
—	1	Automobile ran into side of train. Licence: Man. LIV-481.
		SASKATCHEWAN
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 28-411.
—	2	Auto truck ran into side of train. Licence: Sask. F-58245.
—	2	Automobile ran into side of train. Licence not given.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile ran into side of train. Licence: Sask. L-48.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 139-756.
		ALBERTA
—	3	Automobile ran into side of train. Licence: Alta. 58-T-53.
—	1	Automobile skidded into side of train. Licence: Alta. F-11426.
2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-15091.
—	1	Auto truck ran into side of train. Licence: Alta. CV-35153.
—	3	Automobile ran into side of track motor car. Licence: Alta. 47-H-64.
—	1	Automobile stalled on crossing and was struck by train. Licence: Alta. 54-Z-57.
—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-13364.
1	1	Tractor trailer ran into side of train. Licence: Alta. PS-14634.
		BRITISH COLUMBIA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 6-E-919.
—	1	Auto truck ran into side of train. Licence: B.C. C-26336.
—	4	Automobile ran into side of train. Licence: B.C. 92-679.

Of the 69 accidents at highway crossings, 55 occurred at unprotected crossings, and 14 at protected crossings. Thirty-two occurred after sunrise and thirty-seven after sunset.

OTTAWA, Ont., March 4, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83200 Feb. 19—In the matter of the application of the Canadian Freight Association for approval of an agreed charge and for withdrawal of the Board's approval of Agreed Charge C.T.C. (AC) No. 9, dated June 7, 1940.

83201 Feb. 19—Authorizing the N.S. Department of Highways to construct a highway across the C.N.R., Inverness Branch, at the east approach to the Canso Causeway, Nova Scotia.

83202 Feb. 19—Permitting the removal of slow order at C.N.R. crossing at mileage 27·3 Bala Subdivision, Ontario.

83203 Feb. 19—Permitting the removal of slow order at C.N.R. crossing east of the station at Leney, Saskatchewan.

83204 Feb. 19—Permitting the removal of slow order at C.N.R. crossing west of the station at Thorndale, Ontario.

83205 Feb. 19—In the matter of application of C.N.R. for approval of proposed Supplement No. 2 to C.N.R. Tariff C.T.C. (Q.R.L. & P.) No. 175.

83206 Feb. 22—Approving proposed location of storage tank of Imperial Oil Limited, near the tracks of C.P.R. at Leduc, Alberta.

83207 Feb. 22—Approving proposed location of storage tank, etc., of Canadian Oil Companies Limited, near C.P.R. tracks at Dryden, Ontario.

83208 Feb. 22—In the matter of Order No. 64794, dated May 5, 1944, which authorized the installation of automatic protection at the crossing of Pere Marquette Railway Company and the highway, west of Coatsworth Station, Ontario.

83209 Feb. 22—Authorizing the C.P.R. to remove the half interlocker at the crossing of the Grand River Railway and the C.N.R., Kitchener, Ontario.

83210 Feb. 23—In the matter of application of the British Columbia Department of Public Works for an Order extending the time within which the C.N.R. were required by Order No. 75756, dated December 19, 1950 to close the crossing at their railway and the highway in the Province of British Columbia at mileage 17·6, Albreda Subdivision.

83211 Feb. 23—Approving proposed location of storage tank, etc. of North Star Oil Limited, near C.N.R. tracks at Canwood, Saskatchewan.

83212 Feb. 23—Approving proposed location of storage tank, etc. of North Star Oil Limited, near C.N.R. tracks at Candiac, Saskatchewan.

83213 Feb. 23—Approving proposed location of storage tank, etc. of North Star Oil Limited, near C.N.R. tracks at Aylsham, Saskatchewan.

83214 Feb. 23—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near C.N.R. tracks at Harrow Street, Winnipeg, Manitoba.

83215 Feb. 23—In the matter of application of British Columbia Department of Public Works for an Order amending Order No. 74107, dated March 9, 1950, which authorized the C.N.R. to close the highway across its railway at mileage 35·23, Albreda Subdivision, British Columbia.

83216 Feb. 23—Exempting the C.N.R. from maintaining right-of-way fencing between mileages 139 and 139·5, Gladstone Subdivision, Manitoba.

83217 Feb. 23—Approving revised plan showing changes in the westward approach track circuit at crossing of the C.N.R. and Wellington Street, Hamilton, Ontario.

83218 Feb. 23—Permitting the removal of slow order at C.N.R. crossing of Wellington Street, Hamilton, Ontario.

83219 Feb. 24—Exempting the Trans Mountain Oil Pipe Line Company from submitting plans, etc. in respect of changes in location of its pipe line referred to in a certain affidavit.

83220 Feb. 24—Approving proposed location of loading point etc. of McColl-Frontenac Oil Company Limited, near C.N.R. tracks at Montreal East, P.Q.

83221 Feb. 24—Authorizing the Saskatchewan Power Commission to construct certain gas pipe line under tracks of the C.N.R., south of the 19th Street subway, Saskatoon, Saskatchewan.

83222 Feb. 24—Approving proposed location of storage tanks, etc. of Automatic Electric (Canada) Limited, near C.N.R. tracks at Brockville, Ontario.

83223 Feb. 24—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83224 Feb. 24—Authorizing the C.P.R. to construct an industrial siding across Crouse Road and Modern Road, Township of Scarborough, County of York, Ontario.

83225 Feb. 24—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near C.N.R. tracks at Emo, Ontario.

83226 Feb. 24—Restricting the speed of trains over first public crossing south of station shelter or the public crossing just north of the station shelter at Stickney, Ontario.

83227 Feb. 24—Permitting the removal of slow order at C.N.R. crossing south of station at Zephyr, Ontario.

83228 Feb. 24—Authorizing the Newfoundland Department of Public Works to construct a connecting road across the C.N.R., mileage 512·89, Port aux Basques Subdivision, Newfoundland.

83229 Feb. 25—Restricting the speed of trains at C.N.R. crossing and 99th Street, Edmonton, Alberta.

83230 Feb. 25—Permitting the removal of slow order at C.N.R. crossing of McGowan Road, east of station at Scarboro, Ontario.

83231 Feb. 25—Permitting the removal of slow order at Chesapeake and Ohio Railway Company crossing of Park Avenue, Chatham, Ontario.

83232 Feb. 26—Approving signs indicating less than standard clearances at siding at mileage 16·38, Bedford Subdivision, Nova Scotia, on the industrial spur serving Guildfords Limited.

83233 Feb. 26—Extending the time within which protection is to be installed at C.N.R. crossing in the Village of Villeneuve, P.Q.

83234 Feb. 26—Permitting the removal of slow order at C.N.R. and King Street, Village of Thedford, Ontario.

83235 Feb. 26—Requiring the C.N.R. to install protection at crossing of Route No. 55, in the Town of St. Felicien, P.Q.

83236 Feb. 26—Permitting the removal of slow order at C.N.R. crossing east of station at Baden, Ontario.

83237 Feb. 26—Permitting the removal of slow order at C.P.R. crossing east of station at Mount Orford, P.Q.

83238 Feb. 26—Permitting the removal of slow order at C.N.R. crossing at Turcotte Avenue, Town of Quebec West, P.Q.

83239 Feb. 26—Permitting the removal of slow order at C.P.R. crossing at mileage 14·78, Trois Rivieres Subdivision, Quebec.

83240 Feb. 26—Permitting the removal of slow order at C.P.R. crossing at highway No. 4, near Lexion, Alberta.

83241 Feb. 26—Permitting the removal of slow order at C.P.R. crossing, near Grand Forks, British Columbia.

83242 Mar. 1—In the matter of General Freight Rates investigation directed by Order in Council P.C. 1487, dated April 7, 1948 (Equalization Case).

83243 Mar. 1—Authorizing the C.N.R. to install block signals between mileage 102·00 and 141·42, Kashabowie Subdivision, Ontario.

83244 Mar. 1—Authorizing the C.N.R. to remove the signals installed under Order No. 33410, dated March 3, 1923, at the crossing of their railway and the railway of the Canadian Pacific Railway Company, at Minto, Ontario.

83245 Mar. 1—Restricting the speed of trains at C.N.R. crossing of Douro Street, Stratford, Ontario.

83246 Mar. 1—Permitting the removal of slow order at C.P.R. crossing south of station at Inverlake, Alberta.

83247 Mar. 1—Permitting the removal of slow order at C.N.R. crossing at Lancaster Boulevard at Fort Garry, Manitoba.

83248 Mar. 1—Permitting the removal of slow order at C.P.R. crossing of Highway No. 97, near Realm, British Columbia.

83249 Mar. 1—In the matter of application of the Northern Transportation Company Limited for licence under section 10 of the Transport Act.

83250 Mar. 2—Authorizing the Town of Neepawa, to construct a sewer pipe under C.N.R. tracks in the City of Neepawa, Manitoba.

83251 Mar. 2—Requiring the C.N.R. to install protection at crossing of road leading to the station at St. Philippe de Neri, P.Q.

83252 Mar. 2—Approving Traffic Agreement between the Bell Telephone Company of Canada and La Corporation de Téléphone de Québec.

83253 Mar. 2—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and Durham Road Telephone Company Limited.

83254 Mar. 2—Approving Traffic Agreement between the Bell Telephone Company of Canada and Paul-Emile Arpin.

83255 Mar. 2—Restricting the speed of trains at C.P.R. crossing west of station, Avenue "D", Saskatoon, Saskatchewan.

83256 Mar. 2—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Innisfil Telephone Company Limited.

83257 Mar. 2—In the matter of application of C.P.R. for recommendation by the Board to the Governor in Council for sanction of an agreement between the C.P.R. and C.N.R. with reference to joint use of certain facilities of C.P.R. at Farnham, P.Q.

83258 Mar. 2—In the matter of application of C.P.R. for recommendation by the Board to the Governor in Council for sanction of an agreement between the C.P.R. and C.N.R. with reference to joint use of certain facilities of C.P.R. at Farnham, P.Q.

83259 Mar. 2—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along certain public highway in the County of Kent, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 83260

In the matter of the application of the Canadian Freight Association, under section 325 (3) of the Railway Act, for approval of proposed Supplement No. 37 to Canadian Freight Classification No. 19, C.T.C. No. 983, on file with the Board under file No. 33365·159:

TUESDAY, the 2nd day of March, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in the *Canada Gazette*, as required by section 325 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections if any, be filed with the Board within thirty days; no one offering any objections;

And upon reading the submissions filed—

It is ordered that the said Supplement No. 37 to Canadian Freight Classification No. 19, C.T.C. No. 983, on file with the Board under file No. 33365·159, be, and it is hereby, approved.

FRANK M. MacPHERSON,
Commissioner.

87608—1

ORDER No. 83325

In the Matter of the application of Northern Transportation Company Limited for a licence under section 10 of the Transport Act:

And in the Matter of Order No. 83249, dated March 1st, 1954:

File No. 42076·33

THURSDAY, the 11th day of March A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 83249, dated March 1, 1954, be, and it is hereby amended:

1. By deleting from paragraph 1 of the operative part of the said Order the following vessels:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Radium No. 500	Under construction	280
Radium No. 501	Under construction	280
Radium No. 502	Under construction	280

2. By adding to paragraph 3 of the operative part of the said Order the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Radium No. 500	Under construction	280
Radium No. 501	Under construction	280
Radium No. 502	Under construction	280

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83326

In the Matter of the application of Canada Steamship Lines Limited and the Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division") hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·4·1

THURSDAY, the 11th day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of section 12 of the Transport Act, Licence Number C.T.C. (W.T.) 285 be issued to the Applicant licensing, for the period of one year commencing January 15, 1954, the following ships to transport passengers between all ports and places in Canada on the St Lawrence River between Montreal and the West end of the Island of Orleans:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Richelieu	150828	5528
St. Lawrence	153438	6328
Tadoussac	153447	7013

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83339

In the Matter of the application of Canada Steamship Lines Limited and the Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division"), hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·4·2

THURSDAY, the 11th day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of section 12 of the Transport Act Licence No. C.T.C. (W.T.) 286 be issued to the Applicant licensing, for the period of one year commencing January 15, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1 On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Acadian	133533	1686
Barrie	151045	1824
Battleford	148134	2357
Beaverton	125440	2012
Calgarian	112205	2272
Canadian	125427	2214
City of Hamilton	153423	1665
City of Kingston	152837	1690
City of Montreal	153422	1665
City of Toronto	152838	1688
City of Windsor	154463	1905
Edmonton	122856	1983
Elgin	145518	1906
Fairmount	68808	1851
Fernie	154461	2419
Grainmotor	154473	1829
Hastings	145533	1906
Kenora	124235	1979
Kinmount	138187	1711
Lethbridge	147702	2407
Mapleheath	129767	1692
Meaford	151043	1824
Penetang	151046	1824
Saskatoon	153436	2412
Selkirk	152859	2384
Simcoe	145511	1783
Starmount	145609	1859
Teakbay	154462	1895
Weyburn	153437	2408
Winnipeg	152854	2383

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Westmount	138232	7392
Collingwood	117089	4529
Renvoyle	148133	3571

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83380

In the matter of the application of the Canadian Freight Association, under section 325 (3) of the Railway Act, for approval of proposed Supplement No. 38 to Canadian Freight Classification No. 19, C.T.C. No. 983, on file with the Board under file No. 33365·160:

FRIDAY, the 19th day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in the *Canada Gazette*, as required by section 325 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections if any, be filed with the Board within thirty days; no one offering any objections;

And upon reading the submissions filed—

It is ordered that the said Supplement No. 38 to Canadian Freight Classification No. 19, C.T.C. No. 983, on file with the Board under file No. 33365·160, be, and it is hereby, approved to become effective April 1, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83402

In the matter of the application of the Canadian Freight Association dated February 11, 1954, for approval of Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) 61:

File No. 40994·53

MONDAY, the 22nd day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) 61 be, and it is hereby, approved; and that the date from which the said Supplement No. 1 shall become operative is hereby fixed as the 15th day of February, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83405

In the matter of the application of the Canadian Freight Association, dated February 12, 1954, for approval of Supplement No. 4 to Agreed Charge tariff C.T.C. (AC) No. 32:

File No. 40994·23

TUESDAY, the 23rd day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge tariff C.T.C. (AC) No. 32 be, and it is hereby, approved, and that the date from which the said Supplement No. 4 shall become operative is hereby fixed as February 15, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83432

In the matter of the application of The Best Foods (Canadian) Ltd., The Borden Company, Limited, Bright Canning Company Ltd., Gerber-Ogilvie Baby Foods Limited, Mowbray Foods Limited, Nestle (Canada) Ltd., Niagara Food Products Limited, Pyramid Canners Limited, Smart Bros. Limited and E. D. Smith & Sons Limited, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (A.C.) No. 62 as approved by the Board:

File No. 40994·47

MONDAY, the 29th day of March, A.D. 1954.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of The Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed for the following companies: The Best Foods (Canadian) Ltd., The Borden Company Limited, Bright Canning Company Ltd., Gerber-Ogilvie Baby Foods Limited, Mowbray Foods Limited, Nestle (Canada) Ltd., Niagara Food Products Limited, Pyramid Canners Limited, Smart Bros. Limited and E. D. Smith & Sons Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C (1) to stations and/or places specified in paragraph C (2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge: and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, FEBRUARY, 1954.

Railway Accidents	159	Killed	11	Injured	279
Level Crossing Accidents	49	Killed	11	Injured	66
Total	208		22		345

	Killed	Injured
Passengers	1	143
Employees	5	130
Others	16	72
Total	22	345

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEW BRUNSWICK
..	1	Tow truck and automobile drove onto crossing and were struck by run-away cars. License: NB 2078 & NB 20-051.
..	1	Auto truck ran into side of cars being pushed over crossing. License: NB C-17-341.
		QUEBEC
..	2	Automobile ran into side of train. License: Que. 13894.
1	..	Pedestrian walked onto crossing in front of approaching train and was struck.
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Que. 371-992.
..	3	Automobile drove onto crossing in front of approaching train and was struck. License: Que. 266-066.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Que. F-91066.
..	5	Automobile drove onto crossing in front of approaching train and was struck. License: Que. 208877.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Que. F-39260.
..	1	Automobile ran into side of standing train. License: Que. F-24105.
..	2	Automobile ran into side of train. License: Que. 36-2016.
1	..	Pedestrian walked onto crossing in front of approaching train and was struck.
1	..	Auto truck drove onto crossing in front of approaching train and was struck. License: Que. F-21959.
..	1	Automobile drove onto crossing and was struck by track motor car. License not given.
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Que. F-82129.
..	1	Auto truck ran into side of standing caboose. License: Que. F-61007.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Que. S-2919.
		ONTARIO
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 78-H-9.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Ont. C-1178.
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. BY-124.
..	1	Auto truck ran into side of train. License: Ont. C-32951.
..	2	Auto truck ran into side of engine backing over crossing. License: Ont. C-53013.

Killed	*Injured*	
..	1	Auto truck ran into side of train backing over crossing. License: Ont. 77-308-B.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Ont. C-43161.
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 389-T-1.
..	1	Automobile ran into side of train. License: Ont. G-7938.
..	1	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 359-S-1.
1	1	Automobile ran into side of train. License: Ont. 180K-2.
..	2	Automobile ran into side of train. License: Ont. 18-C-17.
2	..	Auto truck drove onto crossing in front of approaching train and was struck. License: Ont. 53923-C.
..	2	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 6-W-455.
..	2	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 945-M-4.
..	1	Transport truck drove onto crossing in front of approaching train and was struck. License: B.C. C-79-740.
1	..	Child walked onto crossing in front of approaching train and was struck.
..	2	Automobile drove onto crossing in front of approaching train and was struck. License: Ont. 36-U-44.

MANITOBA

..	3	Automobile ran into side of train. License: Man. 1-W-185.
..	4	Automobile ran into side of train. License: Man. 7-C-590.
..	2	Auto truck drove onto crossing in front of approaching train and was struck. License: Man. DC-655.
..	1	Trailer truck drove onto crossing in front of approaching train and was struck. License: Ont. 7226-T.
..	3	Auto truck ran into side of train. License: Man. T-773.
..	1	Automobile drove onto crossing and was struck by track motor car. License not given.

SASKATCHEWAN

..	1	Automobile drove onto crossing and was struck by track motor car. License: Sask. 43345.
..	1	Auto truck ran into side of train. License: Alta. E-579.

ALBERTA

..	2	Automobile drove onto crossing in front of approaching train and was struck. License: Alta. 9-E-966.
..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: Alta. PS-11647.
4	..	Automobile drove onto crossing in front of approaching train and was struck. License: Sask. 112-585.

BRITISH COLUMBIA

..	1	Auto truck drove onto crossing in front of approaching train and was struck. License: B.C. C-16-503.
..	2	Automobile ran into side of train. License: B.C. R-9001.
..	1	Auto truck ran into side of train. License: B.C. 94-212.

Of the 49 accidents at highway crossings, 39 occurred at unprotected crossings, and 10 at protected crossings. Twenty-eight occurred after sunrise and twenty-one after sunset.

Ottawa, Ont.
March 29, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83260 March 2—Approving Supplement No. 37 to Canadian Freight Classification No. 19, C.T.C. No. 983.

83261 March 2—Authorizing the C.N.R. to use the bridge over the Blackwater River, Ontario, at mileage 4·1 Dorion Subdivision.

83262 March 2—Authorizing the C.N.R. to realign the two railway tracks across 115th Avenue, Edmonton, Alberta, to connect with two private industrial spurs to serve Western Grocers Limited.

83263 March 2—Authorizing the C.N.R. to use the subway at Mont Joli, Quebec, at mileage 0·1 Rimouski Subdivision.

83264 March 3—Permitting the removal of slow order at C.N.R. crossing south of the station at St. Norbert, Manitoba.

83265 March 3—Authorizing the C.P.R. to construct a private siding to serve Imperial Oil Limited across St. Philippe Street, City of Trois Rivieres, P.Q.

83266 March 3—Approving proposed location of storage tanks, etc., of Riverlake Oils Limited, near C.N.R. tracks at Atikokan, Ontario.

83267 March 3—Authorizing the C.N.R. to use the subway at St. Germain Street, in Rimouski, P.Q.

83268 March 3—Authorizing the C.N.R. to use the bridge over the Blackwater River, Ontario, at mileage 5·5 Dorion Subdivision.

83269 March 3—Authorizing the Corporation of the District of Surrey, B.C., to construct Bay Street across the Great Northern Railway Company in the Town of White Rock, B.C.

83270 March 3—In the matter of application of Charles Sanders, for a licence under section 10 of The Transport Act.

83271 March 3—Permitting the removal of slow order at C.N.R. crossing west of Wainwright, Alta.

83272 March 3—In the matter of application of the Municipal Village of Riviere Beaudette, P.Q., for the installation of automatic protection at C.N.R. crossing west of station at Riviere Beaudette, P.Q.

83273 March 4—Authorizing the C.N.R. to make changes to the interlocking crossing of their Lewvan Subdivision, and the main line of the C.P.R. at mileage 115·27 Lewvan Subdivision, near Regina, Sask.

83274 March 4—Authorizing the C.P.R. to make changes in the protection at the crossing of Highway No. 34 at Green Valley, Ontario.

83275 March 4—Permitting the removal of slow order at C.N.R. crossing at Highway No. 9, at Sturgis, Saskatchewan.

83276 March 4—Approving proposed location of storage tank etc., of the Midwest Lumber Company Ltd., near New York Central Railroad Co. tracks at Windsor, Ontario.

83277 March 4—In the matter of the application of the C.N.R. for an Order amending Order No. 83105, dated February 5, 1954, which approved the proposed location of their facilities for the handling and storage of inflammable liquids at Lynn Lake, Man.

83278 March 4—Permitting the removal of slow order at C.N.R. crossing of Rothesay Avenue, Saint John, N.B.

83279 March 4—Permitting the removal of slow order at C.P.R. crossing west of station in the Town of Lachute, P.Q.

83280 March 4—Approving Appendix to Traffic Agreement between the Bell Telephone Company of Canada and Téléphone d'Harricana et Gatineau Limitée.

83281 March 4—In the matter of application of Canadian Arsenals Limited for permission to use strapped boxes for the transportation by rail freight of RDX/TNT.

83282 March 4—In the matter of application of Defence Industries (1951) Limited for permission to use strapped boxes for the transportation by rail freight of RDX/TNT/BWX.

83283 March 4—Permitting the removal of slow order at C.P.R. crossing of Markham Road west of Locust Hill, Ontario.

83284 March 5—In the matter of application of Canadian Passenger Association, for approval of revised Standard Mileage Passenger Tariffs.

83285 March 5—Permitting the removal of slow order at C.P.R. crossing at Boyne Street, first crossing east of station at Treherne, Man.

83286 March 5—Permitting the removal of slow order at C.P.R. crossing of the highway at Cousins, Alberta.

83287 March 5—In the matter of application of F. A. Price Coal Company of Montreal, P.Q., for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 14 as approved by the Board.

83288 March 5—In the matter of application of F. A. Price Coal Company of Montreal, P.Q., for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 11 as approved by the Board.

83289 March 5—In the matter of application of the Township of Caledon, Ontario, for an Order authorizing it to eliminate the bad conditions existing at the crossing of the C.P.R. and the highway north of the station at Inglewood, Ontario.

83290 March 5—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominon Atlantic Railway Company under section 8.

83291 March 5—In the matter of application of the Abitibi Navigation Company, Limited, for a licence under section 10 of the Transport Act.

83292 March 5—In the matter of application of C.N.R. for an Order extending the time within which it was required by Order No. 81573, to install automatic protection at the crossings of their industrial spur and Provincial Highway No. 14/33 at mileage 0·54 of the said spur, and Provincial Highway No. 41 at mileage 3·59 of the said spur, near Picton, Ontario.

83293 March 5—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Company under section 8.

83294 March 8—In the matter of the application of the C.N.R. for authority to change automatic block signal 72 on the Dundas Subd., to a station protection signal.

83295 March 8—In the matter of approval of plan submitted to the C.N.R. by the British American Oil Company Limited, showing the proposed location of pumping facilities and warehouse at Burns Lake, B.C.

83296 March 8—Approving plans, etc., showing the location of the deviation of the Trans-Northern Pipe Line Company's pipe line from a point on Lot 28 in the Fourth Concession of the Township of Darlington, County of Durham, to a point on Lot 7 in the 4th Con. of the Township of East Whitby, in the County of Ontario.

83297 March 8—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Canadian National Railways under section 3.

83298 March 8—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near C.N.R. tracks at Davidson, Sask.

83299 March 8—Authorizing the C.N.R. to install certain protection at the crossing of their railway and the C.P.R. at Carlyle, Saskatchewan.

83300 March 8—Authorizing the C.P.R. to construct its tracks across the proposed new road in Southeast Quarter of Section 23, Township 13, Range 14, W4M, Alberta.

83301 March 9—Permitting the removal of slow order at C.N.R. crossing, first crossing west of the station at Edgeley, Saskatchewan.

83302 March 9—Permitting the removal of slow order at C.N.R. crossing at Lansdowne Avenue in the Town of Callander, Ontario.

83303 March 9—Approving operation of the C.N.R. trains, etc., over the siding of the Toronto Harbour Commissioners as relocated across Commissioners Street, in the vicinity of Leslie Street, Toronto, Ontario.

83304 March 9—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs, filed by the C.P.R. under sections 3 and 9.

83305 March 9—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Violet Hill Telephone Company Limited.

83306 March 9—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and The Melancthon Telephone Company Limited.

83307 March 9—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Maple Grove Telephone Company Limited.

83308 March 9—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and the Rocktown Telephone Company Limited.

83309 March 10—Permitting the removal of slow order at C.N.R. crossing of St. Tite Road, first crossing west of the station at Ste. Thecle, P.Q.

83310 March 10—Permiting the removal of slow order at C.N.R. crossing and Town Line Road at Pembroke Junction, Ontario.

88311 March 10—Permitting the removal of slow order at C.N.R. crossing of Havendale Road, at Agincourt, Ontario.

83312 March 10—In the matter of application of C.P.R. for an Order extending the time within which it was required by Order No. 82180, dated September 16, 1953, to install protection at the crossing of the Grand River Railway and Ottawa Street, Kitchener, Ontario.

83313 March 10—In the matter of application of the C.N.R. for an Order amending Order No. 82868, dated January 8, 1954, which exempted them from maintaining right-of-way fencing between certain mileages on their Letellier Subdivision, Manitoba.

83314 March 10—Authorizing the United Townships of Neelon and Garson, Ontario, to construct the highway across the C.P.R. in the Township of Neelon.

83315 March 10—In the matter of the accident on February 5, 1954, at the crossing of the C.N.R. and Hughes Street, St. Thomas, Ontario.

83316 March 10—Permitting the removal of slow order at C.N.R. crossing and Metropolitan Boulevard at Turcot West, in the Town of Montreal West, P.Q.

88317 March 10—Permitting the removal of slow order at crossing of Essex Terminal Railway Company and Victoria Road, in the Town of LaSalle. Ontario.

83318 March 10—Permitting the removal of slow order at C.N.R. crossing of 44th Avenue, Lachine, P.Q.

83319 March 10—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Tobique Subdivision, N.B.

83320 March 10—In the matter of application of the Department of Highways and Transportation of the Province of Saskatchewan for an Order authorizing the installation of automatic protection at the crossing of the C.P.R. and Provincial Highway No. 6, north of the City of Regina, at Armour, Saskatchewan.

83321 March 10—In the matter of Order No. 77382, dated September 15, 1951, requiring protection at C.N.R. crossing of Highway No. 19, near Garneau, P.Q.

83322 March 10—Permitting the removal of slow order at C.P.R. crossing of Broadway Street, west of the station in the City of Yorkton, Sask.

83323 March 11—In the matter of approval of plan submitted to the C.N.R. by Nova Scotia Propane Gas Company Limited, showing the location of pipe lines, etc., for propane gas at Halifax, N.S.

83324 March 11—Relieving the C.N.R. from erecting right-or-way fencing between certain mileages on their Oak Point Subdivision, Manitoba.

83325 March 11—In the matter of application of Northern Transportation Company Limited for a licence under section 10 of the Transport Act.

83326 March 11—In the matter of application of Canada Steamship Lines Limited and the Northern Navigation Company Limited for a licence under section 10 of the Transport Act.

83327 March 11—Permitting the removal of slow order at C.N.R. crossing of Highway No. 99, about two miles west of Lynden, Ontario.

83328 March 11—Authorizing the C.P.R. to make certain changes in the operating circuits installed at the crossing of its railway near the station building at Apple Hill, Ontario.

83329 March 11—Authorizing the City of Kitchener, Ontario, to construct Guelph Street across C.N.R. on the Elmira Branch of the C.N.R., City of Kitchener, Ontario.

83330 March 11—Authorizing the City of Kitchener, Ontario, to construct Weber Street across the C.N.R. in Kitchener, Ontario.

83331 March 11—Permitting the removal of slow order at C.N.R. crossing, east of station at Burns Lake, British Columbia.

83332 March 11—Authorizing the City of Kitchener, Ont., to construct Hayward Avenue across the C.N.R. in the City of Kitchener, Ontario.

83333 March 11—Authorizing the C.P.R. to reconstruct bridge No. 121·1 Laggan Subdivision, over Bath Creek, Alberta.

83334 March 11—Authorizing the Interprovincial Pipe Line Company, to construct a pipe line for the transportation of oil, in the vicinity of the Village of Macrorie, Saskatchewan.

83335 March 11—Authorizing the Dominion Atlantic Railway Company, to remove the station agent and appoint a caretaker at Brazil Lake Station, N.S.

83336 March 11—Permitting the removal of slow order at C.N.R. crossing of Highway No. 15, east of station at Golf, P.Q.

83337 March 11—Approving under the Maritime Freight Rates Act tolls published in supplements to Tariff filed by the C.P.R. under section 8.

83338 March 11—Authorizing the C.P.R. to remove the station agent at Neys, Ontario.

83339 March 11—In the matter of application of Canada Steamship Lines Limited and The Northern Navigation Company, for a licence under section 10 of the Transport Act.

83340 March 12—Authorizing the operation of Interprovincial Pipe Line Company's pipe line, crossing of the North Saskatchewan River, Sask.

83341 March 12—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

83342 March 12—Authorizing the C.N.R. to make changes in circuits of the protection at crossing of Kerr Street, Oakville, Ont.

83343 March 12—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near the C.N.R. tracks at Kindersley, Sask.

83344 March 12—Approving proposed location of storage tank of Imperial Oil Limited, near the C.P.R. tracks, at Coronation, Alta.

83345 March 12—Approving under the Maritime Freight Rates Act tolls published in certain supplements to Tariff C.T.C. No. 1220 filed by the Dominion Atlantic Railway Company, under Section 8.

83346 March 12—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Provost, Alta.

83347 March 15—Approving operation of C.N.R. trains over private siding serving Pembroke Shook Mills Limited, Pembroke, Ont.

83348 March 15—Approving operation of C.P.R. trains over private siding serving Weldwood Plywood Limited, Township of Etobicoke, Ont.

83349 March 15—Approving proposed location of storage tank, etc. of A. Gerow & Son, for liquefied petroleum gas, near the C.N.R. tracks at Brighton, Ont.

83350 March 15—Approving under the Maritime Freight Rates Act tolls published in supplements to Tariff filed by the C.N.R. under Sections 3 and 8.

83351 March 15—Approving Plan No. SD. 3548 revised to December 14, 1953, showing protection as installed at C.N.R. crossing of Gamble Street, Rouyn, Que.

83352 March 15—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Beadle, Sask.

83353 March 16—Authorizing The T.H. & B. Rly Co. to make certain changes in the protection at crossing of Provincial Highway No. 3A, near station at Coyle, Ont.

83354 March 16—Authorizing the C.N.R. to construct a siding extension to serve Acme Paper Products Company Limited, Toronto, Ont.

83355 March 16—Authorizing the C.P.R. to construct a branch line and spur to serve Peckover Industrial Estate, Township of Etobicoke, Ont.

83356 March 16—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Canadian Freight Association under Sections 3 and 8.

83357 March 16—Authorizing the C.N.R. to operate the bridge across the Sturgeon River, at mileage 44·4 Kinghorn Subdivision, Ont.

83358 March 16—Permitting the removal of slow order at C.N.R. crossing of Jane Street, east of the Town of Weston, Ont.

83359 March 16—Authorizing the C.P.R. to operate their trains over the siding of the Toronto Harbour Commissioners serving Brewers' Warehousing Company Limited, Toronto, Ont.

83360 March 16—Permitting the removal of slow order at C.P.R. crossing of Adeline Street, Sault Ste. Marie, Ont.

83361 March 16—In the matter of the application of the C.N.R. for an Order amending Order No. 78252, dated February 6, 1952, re improvement of crossing of their railway and the highway in the Township of Chinguacousy, Ont.

83362 March 16—Permitting the removal of slow order at C.P.R. crossing of Trans-Canada Highway No. 3, west of Aldridge, B.C.

83363 March 16—Authorizing the C.P.R. to operate the bridge across the Champlain Road, Highway No. 2-A, and Bloor Street, Oshawa, Ont.

83364 March 16—Authorizing the C.N.R. to construct one additional railway track across the public road in the Municipality of Villeneuve, Que.

83365 March 17—Restricting the speed of C.N.R. trains at crossing of King Street, Transcona, Man.

83366 March 12—Authorizing the C.P.R. to make changes in the signal protection at the crossing of its railway at mileage 34·1 Goderich Subdivision, and the C.N.R. at Marden, Ont.

83367 March 17—Authorizing the C.N.R. to use the bridge at mileage 35·7 Cowichan Subdivision, B.C.

83368 March 17—Approving route map showing proposed general location of C.P.R. line of railway from a point near Havelock to a point near Nephton, Ont.

83369 March 18—Authorizing the C.P.R. to operate the bridge crossing the main lines of the C.N.R. at mileage 301·88 Oshawa Subdivision, Ont.

83370 March 18—Approving Plan showing protection at private crossing at main entrance to the plant of Dow Chemical of Canada Limited, at Sarnia, Ont.

83371 March 18—In the matter of the application of the C.N.R. for an Order extending the time limit within which they were authorized to take possession of the tracks and facilities of National Harbours Board, Great Northern Railway Company, Canadian Pacific Railway Company, The Burrard Inlet Tunnel and Bridge Company, and the Pacific Great Eastern Railway Company.

83372 March 18—Permitting the removal of slow order at C.P.R. crossing of Eighth Street, west of the station in the City of Portage la Prairie, Man.

83373 March 18—In the matter of the application of the C.P.R. for approval of Plan showing protection as installed at crossing of the private road of the Trans Mountain Oil Pipe Line near Barnet, B.C.

83374 March 18—Authorizing the C.P.R. to install automatic block signal No. 1187 on the Carberry Subdivision, Man.

83375 March 18—Permitting the removal of slow order at C.P.R. crossing east of station at Dinorwic, Ont.

83376 March 18—Authorizing the C.P.R. to make changes to the protection at crossing of Provincial Highway No. 94, east of the station at Corbeil, Ont.

83377 March 18—Permitting the removal of slow order at C.P.R. crossing north of the station at Ste. Marguerite, Que.

83378 March 18—Authorizing the C.P.R. to construct a private siding across Ashtonbee Road, Township of Scarborough, Ont., to serve Victoria Paper Company Limited.

83379 March 19—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company and La Corporation de Telephone de Quebec.

83380 March 19—Approving supplement to Canadian Freight Classification No. 19, C.T.C. No. 983.

83381 March 19—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

83382 March 19—Authorizing the Municipality of the Parish of Senneterre, Que., to construct a public road across the C.N.R. at mileage 136·9 Osekelaneo Subdivision.

83383 March 19—Approving operation of C.P.R. trains over private siding serving Dominion Dressed Meats, Toronto, Ont.

83384 March 19—In the matter of the application of the Town of Wapella, Sask., for an Order authorizing the relocation of the public crossing at 2nd Avenue and the railway of the C.P.R.

83385 March 19—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Broadview Subdivision, Sask.

83386 March 19—Authorizing the City of Vancouver to construct a sewage force main under the tracks of the Vancouver and Lulu Island Railway Company, on First Avenue at Crowe Street, Vancouver, B.C.

83387 March 19—In the matter of the application of the C.N.R. for an Order extending the time within which it was required to construct a branch line of railway in the City of St. Boniface, Man.

83388 March 19—Permitting the removal of slow order at C.N.R. crossing of Rothesay Avenue, Saint John, N.B.

83389 March 19—In the matter of the accident on January 6, 1954, at the crossing of the C.P.R. and Third Street, south of the station in the City of Weyburn, Sask.

83390 March 19—In the matter of the application of the C.N.R. for approval of revised Plan showing the protection at the crossing of the highway at mileage 99·92 Armagh Subdivision, Quebec.

83391 March 19—Permitting the removal of slow order at C.P.R. crossing west of the station in the Town of Cookshire, Quebec.

83392 March 22—Approving restricted clearances on the siding serving Atlantic Gypsum Limited at Humbermouth, Nfld. (C.N.R.)

83393 March 22—Approving clearances on siding serving North Star Cement Limited at Humbermouth, Nfld. (C.N.R.)

83394 March 22—Approving under the Maritime Freight Rates Act tolls published in supplements to Tariff filed by the Canadian Freight Association under sections 3 and 8.

83395 March 22—Authoriizng the C.P.R. to remove the caretaker at Byng Inlet, Ontario.

83396 March 19—In the matter of the application of the British Columbia Telephone Company for an order approving the terms and conditions of the issue and sale or other disposition of 160,000 ordinary shares of the capital stock of the Applicant Company.

83397 March 22—Permitting the removal of slow order at C.P.R. crossing of Main Street, Cookshire, Quebec.

83398 March 22—Authorizing the C.P.R. to make changes in the protection installed at the crossing of Cremazie Blvd., Montreal, Quebec.

83399 March 22—Authorizing the C.N.R. to construct the diversion of their Newmarket Subdivision, Ont., to permit the adbandonment of Orillia Street crossing in the Township of North Orillia, Ontario.

83400 March 22—In the matter of the application of the Interprovincial Pipe Line Company for leave to carry a second line of pipe across certain highways, railways, etc., the said line of pipe to be placed in approximately the same location as the existing crossings.

83401 March 22—In the matter of the application of the Department of Public Works of the Province of British Columbia for an Order amending Order No. 34778, dated February 26, 1924, which authorized the construction of a highway crossing over the Esquimalt & Nanaimo Railway, near Waddington, Vancouver Island.

83402 March 22—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) 61.

83403 March 22—Authorizing the Progas Limited to construct pipe lines across and under the pipe line of the Trans Mountain Oil Pipe Line Company in the south half of Section 26-52-R26-W4M, Alberta.

83404 March 22—Authorizing the Progas Limited to construct pipe lines across and under the pipe line of the Trans Mountain Oil Pipe Line Company in the southwest quarter of Section 26-52-R26-W4M, Alberta.

83405 March 23—In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) No. 32.

83406 March 23—Relieving the C.N.R. from erecting fencing between certain mileages on their Ridgeville Subdivision, Manitoba.

83407 March 24—Permitting the removal of slow order at C.P.R. crossing at Bulwer, Quebec.

83408 March 24—In the matter of the application of the C.N.R. for approval of Plan showing protection as installed at the crossing of their railway and highway about 300 feet east of Ernestown Station, Ont.

83409 March 24—In the matter of the application of the C.N.R. for approval of Plan showing the protection as installed at the crossing of Highway No. 15, in the Parish of Ste. Anne de Beaupre, Quebec.

83410 March 24—Permitting the removal of slow order at C.P.R. crossing of Prince Albert Road, east of Chatham, Ontario.

83411 March 24—Permitting the removal of slow order at C.N.R. crossing of Adelaide Street, Village of Mount Brydges, Ontario.

83412 March 24—In the matter of the application of the C.N.R. for approval of Plan showing the protection as installed at crossing of Lapointe Street, Village of Ste. Anne de Beaupre, Quebec.

83413 March 24—Permitting the removal of slow order at C.N.R. crossing of Bridgeport Road, in the Municipality of Richmond, B.C.

83414 March 24—Permitting the removal of slow order at C.P.R. crossing of Highway No. 1, east of the station at Tyndall, Manitoba.

83415 March 24—Permitting the removal of slow order at C.P.R. crossing of Highway No. 13, west of the station at Elm Creek, Manitoba.

83416 March 25—Authorizing the City of Hamilton, Ont., to extend Strathearne Avenue across the railway spur line serving the Hamilton Industrial Sites area, Hamilton, Ontario.

83417 March 25—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of the Bell Telephone Company of Canada for approval of Extended Area Service of the Laprairie, P.Q., Exchange with the Montreal and St. Lambert Exchanges.

File C. 955·170

JUDGMENT

BY THE BOARD:

By application dated the 24th February, 1954, The Bell Telephone Company of Canada (hereinafter called the Company) submits for approval its plan to accord to subscribers of the Laprairie, P.Q., exchange, as adjusted, free calling privileges with the Montreal and St. Lambert exchanges.

An essential part of the plan is the division of the present Laprairie exchange into two parts of which the southern part will be established as an exchange centered at St. Philippe, P.Q., and the conversion to dial service of the northern part which will be continued as the Laprairie exchange.

It is stated that with the aforesaid division of the present exchange area arrangements will be made to continue existing local calling arrangements between the Laprairie and St. Philippe exchanges thereby maintaining existing calling privileges.

Subscribers in the exchange area to be known as St. Philippe are not otherwise affected by what is here proposed.

The extended area service plan contemplated by this application is the same as that adopted in other exchange areas contiguous to large urban centres, such as we approved in respect of the Montreal area in our First Supplemental Judgment dated March 6, 1951, Vol. 41 Judgments, Orders, Regulations and Rulings, at page 1.

The furnishing of extended area service, as contemplated, is dependent upon the acceptance thereof by a substantial majority of the affected sub-

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scribers in the suburban exchange area, and a willingness of such subscribers to pay the exchange rates of the urban centre. The manner in which extended area service is provided does not permit of optional acceptance.

Following the same procedure as in previous cases, each affected subscriber was canvassed and given an opportunity of recording his wishes by ballot. The results of this ballot are contained in a sworn statement by Jas. Morgan Kerr, Supervisor—Rates, of the Company showing that of a total of 1,147 ballots furnished to customers, 1,102 were completed and returned, or 96 per cent.

Of the total ballots furnished to customers, those returned voting in favour of the Company's plan were 83·7 per cent. Of the total ballots returned 87·2 per cent voted in favour of the plan.

From what has been submitted it is evident that a substantial majority of the affected subscribers are in favour of the extended area service and are willing to incur the payment of Montreal exchange rates.

It should be noted that in addition to free calling privileges with the Montreal exchange similar privileges will be accorded with the adjoining St. Lambert exchange. Such lateral arrangements are in conformity with similar extended area service plans in other like circumstances.

The Company indicates it will be unable to furnish the proposed service until approximately July 1955 but requests our approval now in order to proceed with the necessary work to enable it to provide the service.

Based upon what has been submitted our approval is hereby given. Tariffs to implement the said service are to be filed to take effect on not less than thirty days' notice. No Order is necessary at this time.

HUGH WARDROPE.

OTTAWA, March 12, 1954.

I concur:
A. SYLVESTRE.

I concur:
FRANK M. MACPHERSON.

I concur:
H. B. CHASE.

Application of the Canadian Freight Association for approval of an Agreed Charge on Canned Goods or Preserves, Carloads, from points in Eastern Canada to points in the Provinces of Alberta and British Columbia.

File No. 40994·47

HEARD at Ottawa, November 10, 11 and 12, 1953.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Appearances:

A. H. HART, for Canadian Freight Association, and Canadian National Railways.
K. D. M. SPENCE, Canadian Freight Association, and Canadian Pacific Railway Company.
HAZEN HANSARD, Q.C., Canada Steamship Lines.
J. J. FRAWLEY, Q.C., Province of Alberta.
M. L. RAPOPORT, Canada Packers Limited, and Canadian Canners Limited.

JUDGMENT

WARDROPE, A.C.C.:

By application dated the 4th September, 1953, lodged with the Board on the 8th September, 1953, the Canadian Freight Association, on behalf of the Carriers,[1] submitted for approval an agreed charge on Canned Goods or Preserves, Pickles and Table Sauces, carloads, from shipping points in the Provinces of New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Quebec, also from St. John's, Newfoundland, to destinations in the Provinces of Alberta and British Columbia, executed between the said Carriers and Shippers.[2]

The agreed charge is to apply via All-Rail routes entirely within Canada, and also via established Rail-Lake-Rail and Water-Rail routes. Via the Water-Rail routes the charge applies only from ports Quebec, Que., and west. Rates via water routes are differentially related to the All-Rail rates. For the sake of brevity only the All-Rail rates will be referred to herein.

From shipping points in Ontario and Quebec, defined as Eastern Rate Groups A and B as stated in the Agreed Charge, a rate of $2.07 per 100 pounds is to apply to Pacific Coast destinations such as Vancouver and contiguous territory, except to Nanaimo where a rate of $2.20 is proposed. Rates relatively higher than from rate groups A and B are proposed from other Eastern rate groups and from St. John's, Newfoundland.

[1] British Columbia Electric Railway Company Limited; Canada Steamship Lines Limited; Canadian National Railway Company; Canadian Pacific Railway Company; Central Vermont Railway Inc., The Chesapeake and Ohio Railway Company (Pere Marquette District); The Dominion Atlantic Railway Company; The Esquimalt and Nanaimo Railway Company; The Essex Terminal Railway Company; The Grand River Railway Company; The Lake Erie and Northern Railway Company; The London and Port Stanley Railway; Napierville Junction Railway Company; The New York Central Railroad Company; Northern Navigation Company Limited; Northwest Steamships Limited; Ontario Northland Railway; Pacific Great Eastern Railway Company; Quebec Central Railway Company; The Thousand Islands Railway Company; The Toronto, Hamilton and Buffalo Railway Company; Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee); Wabash Railroad Company.

[2] Canadian Concord Limited; Carnation Company Limited; W. Clark Limited; Daltons (1834) Limited; Fine Foods of Canada Limited; H. J. Heinz Company of Canada Limited; Howell Forwarding Company Limited; Libby, McNeil & Libby of Canada Limited; McLarens Limited; Stokely-Van Camp of Canada Limited.

To specific destinations in Alberta and British Columbia, intermediate to the Pacific Coast points, rates are provided which are equal to one and one-third the rates to such Pacific Coast points.

The proposed agreement applies to a wide variety of canned food products "handled by, for, or in connection with the business of the Shipper, to the extent of not less than eighty-five per cent of the aggregate forwarded by the shipper from" the points of origin to points of destination stated therein.

Rates named in the agreed charge are for general transportation services; in all other respects, subject to the requirement as to quantity of traffic, the terms and conditions of regular tariffs apply, included in which are stop-off privileges in transit.

The agreed rates are subject to a carload minimum weight of 60,000 lbs. The application includes a statement to the effect that with the approval of the agreed charge the carriers propose to cancel the present competitive tariff rate of $2.21 upon which the carload minimum weight is also 60,000 lbs.

Subsequent to the submission of the agreed charge to the Board three applications were received for fixed charges, the same as the agreed charge, namely: Campbell Soup Company Limited, dated September 18, 1953; Matthews-Wells Company Limited, dated October 5, 1953; and Saxonia Fruit Preserving Company Limited, dated December 29, 1953. All such applicants asserted that their business would be unjustly discriminated against unless accorded the same privileges.

While the rates proposed in the agreed charge to points in Alberta and interior British Columbia are exactly one and one-third the rates to the Pacific Coast points, such rates are limited to certain specified destinations and therefore do not conform to the provisions of Section 337 of the Railway Act. The carriers asserted that such provisions of the statute are not applicable to agreed charges and the rates were not based on the principle therein stated.

Our decision in this matter was deferred pending consideration and determination of the principle of applying the provisions of Section 337 to agreed charges as brought into issue in the case concerning Cast Iron Pipe. With the disposition of the latter, and our decision that this agreed charge should be approved, we issued Order No. 83036 on the 28th January, 1954, granting such approval as from the 8th September, 1953, and fixed the same charges for the three applicants above mentioned; such fixed charges to become operative from the dates of the applications made.

Having outlined the scope of the agreed charge, and as our decision has been made, as indicated, I intend to deal only briefly with the main points of contention expressed to us at the hearing. Approximately 250 pages of testimony and argument were taken and twenty-two exhibits were filed. All of these were given careful consideration.

The Province of Alberta, Canada Packers Limited, and Canadian Canners Limited appeared and made objections to approval of the agreement.

The evidence of the Carriers may be broadly summarized as stating that inroads of competing transportation on the traffic of the carriers had resulted in negotiations between the railways and certain shippers through the medium of the Canned Foods Association of Ontario, which culminated in the acceptance of the railways' offer of the base rate of $2.07 to the Pacific Coast and rates to specified interior points one-third higher. It was stated that the inclusion of the rates to interior points was upon request of interested shippers with the result that an overall agreement was made which was mutually acceptable to both parties, excepting those who now appear in opposition.

Carriers' witnesses stated they would not undertake to establish the proposed rates without guarantee of substantial volume of the shippers' traffic, and that this guarantee could not be secured by means of a competitive tariff.

That to do so would enable shippers to use rail service only when it suited them, whereas by the contractual agreed charge the carriers were assured of at least eighty-five per cent of the traffic of the shippers party to the agreement.

Evidence was introduced by carrier witnesses to show that the proposed rates were compensatory and, with the guarantee of traffic, would enhance the net revenue of the carriers.

Evidence by witness for Campbell Soup Company Limited, an applicant for a fixed charge, was mainly to the effect that substantial quantities of his company's traffic had moved via the Panama Canal route to the Pacific Coast; that between July 1, 1952 and June 30, 1953 his company had shipped its entire distribution for Vancouver and vicinity by the Panama route which meant that the railways had lost $250,000 in revenue in 1952. He also stated that it was intended to augment this method of shipment and had the negotiations not taken place with the railways the loss of revenue to the carriers in 1953 could have been $500,000. He further stated that while he would have preferred a competitive tariff rate of $1.90 at carload minimum of 70,000 lbs., and would likewise have preferred the agreed charge rates as competitive tariff rates, the agreed charge was a "package deal" and he thought it was advantageous to both sides. Apart from matters concerning his own company, he spoke for all shippers signatory to the agreement.

Dealing now with the objections made to the agreement: Counsel for the Province of Alberta challenged the adequacy of the notice given in respect of the agreed charge. Similar objections were made by Counsel for the two objecting canning companies.

It was contended that notwithstanding the publication of notice in the *Canada Gazette,* as required by the Statute, and notice given to parties set out in our General Order No. 581, the obligation rested on the applicant carriers to seek out all known canning concerns and receivers of canned goods; and that such information was readily available in publications issued by the Department of Agriculture.

Witness for the carriers stated there was no intention of omitting anyone from receipt of notice but the publication of the Department of Agriculture was not known to exist.

Counsel for the Province of Alberta conceded that any lack of notice, such as alleged, was no statutory bar to approval of the agreed charge, but it would be only reasonable and just that the Board might defer its approval until sufficient notice had been given. The representations of Counsel for the two canning companies were also substantially that the Board defer its approval on these grounds.

Notwithstanding the above contentions it appeared that Counsel for Alberta and the witness for Canadian Canners Limited had, in effect, promulgated notice of the application amongst the trade for their own purposes.

Witnesses for both Canada Packers Limited and Canadian Canners Limited were opposed to the technique of agreed charges on the grounds that the highly competitive nature of the commodity tended to make it impossible for them to become a party to a contractual obligation such as is involved in the agreed charge. In this connection both contended their companies must remain in a position to meet importations from foreign producers and competition from canned goods brokers whose activities include the grouping of sales for smaller canning companies not bound by the agreed charge. Additionally they stressed that some of the signatories to the agreement had plants in the United States from which supplies might be drawn without violating the terms of the agreed charge.

For Canada Packers Limited the witness opposed the change in competitive rate practices of the railways which have existed for many years, and in argument Counsel for both companies urged that the carriers' rates should be made

truly competitive, in which event there would be no need for an agreed charge as claimed by the carriers; also suggesting that the carriers should credit the shippers with good faith in their undertaking to forward traffic on a truly competitive rate.

Witness for Canadian Canners Limited emphasized that the majority of its sales were f.o.b. factory and that it could not give an undertaking to forward traffic in the volume contemplated by the agreed charge, but did indicate a willingness to consider signing an agreement, for traffic it controlled, at a suitable rate. It should be noted here that witness for Campbell Soup Company stated his company sold its products on an f.o.b. factory basis.

Evidence was introduced by these objecting parties as to the reasonableness of the agreed charge rates. This was by comparisons with lower rates of United States railways which were participated in by Canadian lines; lower rates in an agreed charge on canned fish from British Columbia to Eastern Canada; lower westbound rates on beer; and comparisons of car mile earnings under various carload minimum. Counsel for the applicant carriers alleged that these contentions were not relevant to the matter at issue.

The carriers' contention that their net revenue would be improved was challenged on the grounds that by not joining in the agreed charge, and being unable to ship by rail at the tariff rates which would be in effect if the agreed charge were approved, the railways would suffer loss of the traffic of the objecting canners now moving by rail. Canadian Canners Limited stated the railways now obtain the haulage of seventy-three per cent of its traffic. It was not stated what this represented in volume of tonnage or revenue.

To sum up the evidence of the two objecting shippers, it would appear to be that an agreed charge does not meet their views as to the proper method of meeting competition for the carriage of canned goods; that an agreed charge is too rigid to enable the Canners to meet market competition as it arises; that the rates in the proposed agreed charge are too high; that a guarantee of traffic cannot be given where sales are f.o.b. factory; that the railways will lose the haulage of the traffic of the objecting shippers by withdrawing from competitive tariff rate making, thereby offsetting any gain expected from carriage of the traffic of the signatories to the agreement; and that the objective of the carriers can be achieved by proper competitive tariff rates. Coupled with this was an objection to the exclusion of routing through the United States which would deprive some shippers of loading-in-transit privileges without incurring out-of-line haul charges; also the loss of mixing privileges whereby, under present tariff arrangements, articles other than the goods covered in the agreed charge could be included in the load, such as soap and shortening.

Counsel for the Province of Alberta made it clear that he held no instructions from and was not appearing on behalf of Alberta producers of canned goods. No such producer, nor receiver, of canned goods in Alberta has made any representations germane to the issues to be decided. Counsel, apart from seeming to condemn the agreed charge as providing rates so low as to jeopardize the distribution of canned goods from Alberta producers, adopted the legal position he did in the "Cast Iron Pipe" case and incorporated his argument therein in this case. He suggested also that the so-called One Third Rule should be applied, and that in any event the object of the carriers could be achieved by a competitive tariff rate and, accordingly, there was no legal basis for approving the agreed charge here involved.

I realize I may not have set down herein all of the points mentioned in evidence and argument, but I have given careful consideration to all that was adduced. I shall now summarize our conclusions upon which we made our decision to approve the application.

There is a general recognition that the canned foods business is highly competitive. This includes also recognition of the competitive field of trans-

portation. The evidence given by the witness for Campbell Soup Limited indicates clearly the position of the carriers and the loss of traffic they suffered even under competitive tariff rates. Apart from anything said in this case, the tariffs on file with the Board publishing competitive canned goods rates over a long period of time are in themselves evidence of the endeavours to meet competition.

The Board has always held, and rightly so, that the making of competitive rates is a managerial function of the carriers and that the Board's intervention, if necessary, must be only to prevent unjust discrimination. Logically a competitive tariff rate if sufficiently low should ensure the carriage of the traffic, but even in that field Section 334 of the Railway Act, as recently enacted therein, empowers the Board to investigate whether competitive rates are lower than required to meet the competition. The general provisions of the Railway Act respecting rates are that rates must be reasonable and non-discriminatory and applied equally under the same circumstances and conditions, but there is recognition of the right of the carriers to make competitive rates as evidenced by Section 331.

Notwithstanding this right to make competitive rates, the carriers have been given the power to make agreed charges by special legislation which specifically overrides the provisions of the Railway Act, subject to certain safeguards, one of which is that the Board shall not approve an agreed charge if the object to be secured can be adequately attained by means of a tariff under the Railway Act.

I think it has been clearly demonstrated that the objective of the carriers cannot be attained by a competitive tariff of rates under the Railway Act. There is evidence to show the rates charged via the Panama Canal route and the increased sailings which have taken place, also it has been conceded on all sides that this competition is not likely to be diminished or eradicated even with the coming into force of the agreed charge here involved.

Under a competitive tariff rate the carriers have no assurance of obtaining the traffic. They do obtain assurance under the agreed charge from those shippers who have accepted its terms. It is true that the agreed charge does not prevent a signatory shipping goods from plants in the United States, but in so far as shipments from Canadian territory are concerned the agreement will be operative.

I find, therefore, that the object of the carriers cannot be attained by means of a competitive tariff of tolls under the Railway Act.

The next point for consideration is the matter of the net revenue of the carriers. I am satisfied that the rates are compensatory per se. I consider it has been shown that the guarantee of traffic will tend to improve the net revenue position of the carriers mainly because it will retain traffic which might otherwise be lost to competing transportation agencies. The evidence of the witness for Campbell Soup Limited is in point and was not challenged or refuted. While it was contended that the traffic of Canada Packers Limited and Canadian Canners Ltd. now carried would decrease because of the removal of a present competitive rate there is nothing on the record to show that this may not occur without the advent of the agreed charge. On the whole I am of the opinion that the agreed charge will tend to improve the net revenue position of the carriers.

I am also of the opinion that there is no evidence of unjust discrimination prevailing by the making of the agreed charge. It is provided by statute that such a condition, if it arises, can be overcome by the powers the Board holds to fix like charges for any party willing to subscribe to the same terms and conditions. Obviously if there is an unwillingness to submit to such terms and conditions I would have difficulty in finding a condition of unjust discrimination prevails.

Under subsection 15, Section 32 of the Transport Act we have wide powers to take into consideration the effect the making of the agreed charge has, or is likely to have, on the business of any shipper objecting to approval thereof.

The predominant argument made here by objecting shippers is that their business must be transacted under stress of competition, and for this reason they are unwilling to enter into an agreed charge. Yet underlying their submissions is the suggestion that they object to the level of the agreed charge rates. I think it can be correctly inferred that they consider the rates to be too high and that lower competitive rates should be established; that such would secure the traffic and an agreed charge would be unnecessary.

Counsel for these shippers conceded that no one can force the railways to publish competitive rates; by the same token I think it is clear they cannot be reproached if they have succeeded in securing from some shippers a contractual undertaking satisfactory to both, but which is unsatisfactory to the objectors because it is not low enough. One might reasonably ask why these objecting shippers who seek to show the agreed charge rates are too high, should oppose the acceptance of these rates by their competitors to whom they are satisfactory, and what detriment it is to their business if such rates go into effect?

By withdrawing the former competitive tariff rate of $2.21 there is left in effect a non-competitive rate of $3.56 at a lower carload minimum. The objectors state this rate will not be used and it seems clear that the carriers do not expect it to be. It might be inferred that these shippers are attacking the rate remaining available to them if they do not choose to enter into the agreed charge and in reality are seeking the publication of a competitive rate.

The right of a shipper to object is confined to unjust discrimination, but I am of the opinion that unjust discrimination has not been demonstrated, or that it does not exist as long as the objecting shippers decline to accept the same terms as accepted by the signatories to the agreed charge. Both objecting shippers indicated their position must be reviewed if the agreement is approved and steps taken to establish means of reaching their markets. It seems evident that they have available competitive means of transport, both by highway and by water, and it may well be they prefer such means rather than submit to what they term a rigid rate structure. That is their choice.

It is my opinion that the objecting shippers have failed to show that the agreed charge will have an undue effect on their business within the meaning of the statute.

In considering the representations as to lack of notice, I must observe that whatever lack there might have been in that respect was remedied by the voluntary circularizing undertaken by witness for Canadian Canners Limited and by Counsel for the Province of Alberta. I am of the opinion that publication in the *Canada Gazette* alone would discharge all statutory obligations. The furnishing of notices to the list of organizations and associations set out in our General Order No. 581 should also suffice. The requirements as to other parties to be notified as shown in item 19, Appendix C of the Order is qualified by the words "known to be engaged in the same line of business, etc." Witness for the Canadian Freight Association stated he was unaware of the additional source of information as to possible interested parties, and that there was no intention or desire to omit serving notice on anyone. While greater diligence might have been displayed in this connection it does not warrant dismissing the application for that reason.

During the hearing a motion made by Counsel for the objecting Canners sought dismissal of the application on the grounds that the Great Northern Railway was not a participant in the agreed charge, and that subsection 3 of Section 32 of the Transport Act required such participation.

In support of the motion it was argued that the Great Northern Railway operated within Canada and was a participant in the ordinary tariff rates applicable to Canned Goods, and that other United States lines operating in Canada, such as the Chesapeake and Ohio, New York Central, and Wabash were participants in the agreed charge.

Opposing the motion the carriers asserted there was no obligation to include routing via lines which must traverse long distances through a foreign country in conjunction with other railroads which do not operate within, Canada, and that the participation of the Chesapeake and Ohio, New York Central, and Wabash was limited to routes entirely within Canada, which participation was entirely voluntary and not compulsory.

For purposes of record I include herein the decision we rendered on the motion during the hearing:

> "THE ASSISTANT CHIEF: Gentlemen, we have given consideration to the motion for dismissal on the grounds that Mr. Rapoport raised and we have this to say: We do not consider the provisions of subsection (3) of Section 32 have application to the competitive position of the Great Northern Railway insofar as the traffic contemplated by the agreed charge is concerned.
>
> "We have arrived at this decision because it is obvious that the Great Northern Railway would only be able to handle this traffic by arrangement with other railways which are not carriers within the meaning of the Transport Act or the Railway Act. Therefore, we are of the opinion that because the Great Northern Railway is not a party to the proposed agreed charges, it has no bearing on our consideration of the Application for approval thereof. Accordingly, the application is dismissed." (Transcript p. 11901, Vol. 935)

It should be noted that the Great Northern Railway serves only two destinations named in the agreed charge, i.e., Vancouver and Nelson, B.C. In neither case is it feasible for the Canadian carriers to provide routing to these two points via the Great Northern without incurring long hauls within United States territory, and, in the main, without requiring the additional participation of other foreign railways. It would be anomalous if the provisions of the Statute should be contingent upon securing the consent or concurrence of foreign railways.

Upon full consideration of the application and the objections and for the reasons stated herein, I consider the application should be approved. As our Order has issued no further action is necessary.

HUGH WARDROPE.

OTTAWA, March 15, 1954.

I concur:

A. SYLVESTRE.

I concur:

F. M. MACPHERSON.

ORDER No. 83466

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076-34

FRIDAY, the 2nd day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 287 be issued to the Applicant licensing for the period of one year commencing February 9, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. Between (*a*) Tuktuk, N.W.T.; (*b*) points on Great Slave Lake east of and including Rocher River and Francois Bay, N.W.T., except Fort Reliance, N.W.T.; (*c*) points on Lake Athabaska east of and including Camsell Portage and Fond du Lac, Saskatchewan, except Bushell, Black Bay, Goldfields and Stoney Rapids, Saskatchewan. *And* all points within the watershed of the Mackenzie River but not including the Liard, Nelson and Bear Rivers.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
M.V. Watson Lake	175563	26
M.V. Hearne Lake	156578	95
M.V. Pelly Lake	156566	77
M.V. Pelican Rapids	175564	164
H.B.C. Barge No. 106	193281	105
H.B.C. Barge No. 209	193282	365
H.B.C. Barge No. 210	193283	365
H.B.C. Barge No. 211	175554	296
H.B.C. Barge No. 212	175555	296
H.B.C. Barge No. 254	175556	216
H.B.C. Barge No. 255	175557	216
H.B.C. Barge No. 256	175558	216
H.B.C. Barge No. 257	175559	216
H.B.C. Barge No. 258	175560	420
H.B.C. Barge No. 259	175561	420

2. On Nelson and Liard Rivers, situated between Fort Nelson, British Columbia, and Fort Simpson, N.W.T., inclusive.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
M.B. Stuart Lake	175562	15
H.B.C. Scow No. 1	Not registered	40
H.B.C. Scow No. 2	Not registered	40
H.B.C. Scow No. 4	Not registered	15
H.B.C. Scow No. 5	Not registered	40

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83475

In the matter of the application of Colonial Steamships, Limited, for a licence under section 10 of the Transport Act:

And in the matter of Order No. 83099, dated February 5, 1954:

File No. 42076·16

MONDAY, the 5th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 83099, dated February 5, 1954, be and it is hereby, amended:

1. By deleting from paragraph numbered 1 of the said Order the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Mathewston	141679	7403

and substituting therefor the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Ralph S. Misener	141679	7403

2. By deleting from paragraph numbered 2 of the said Order the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Lt. J. Misener	161517	1928
Ralph Misener	161520	1940

and substituting therefor the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
H. L. Wyatt	161517	1928
C. A. Ansell	161520	1940

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83487

In the matter of the application of Upper Lakes and St. Lawrence Transportation Company Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·22

TUESDAY, the 6th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.C.) 288 be issued to the Applicant licensing for the period of one year commencing January 15, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Brown Beaver	160721	1892
Charles R. Huntley	148898	1760
Grey Beaver	160722	1892
James Stewart	148901	1760
John S. Pillsbury	149071	1754
Judge Kenefick	148430	1745
Shelton Weed	148453	1745

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River as far seaward as Prescott, Ontario:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Ralph Budd	154862	4537

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83418 Mar. 25—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways at Port Arthur, Ontario.

83419 Mar. 25—Authorizing the C.N.R. to construct a temporary highway crossing in the Town of Port Hawkesbury, N.S.

83420 Mar. 26—Permitting the removal of slow order at C.P.R. and 63rd Avenue in the City of Edmonton, Alberta.

83421 Mar. 26—Approving proposed location of storage tanks, etc., of Canadian Oil Companies Limited near the C.N.R. tracks at Vegreville, Alberta.

83422 Mar. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Moncton, New Brunswick.

83423 Mar. 26—In the matter of application of the City of Edmonton for a re-hearing of the application of the C.P.R. which gave rise to certain of the Board's Orders with respect to construction of three additional tracks across 113th, 114th and 115th Streets and certain lanes in the City of Edmonton, Alberta.

83424 Mar. 26—Permitting the removal of slow Order at C.N.R. crossing at mileage 42·6 Camrose Subdivision, Alberta.

83425 Mar. 26—Restricting the speed of trains at C.P.R. crossing of Sherbrooke Street, Lancaster, New Brunswick.

83426 Mar. 26—Extending the time within which the C.P.R. is required to install certain protection at the crossing of its railway and Horne Avenue at Mission, British Columbia.

83427 Mar. 26—In the matter of consideration of additional protection at the crossing of the C.P.R. and the highway just west of the station at Agincourt, Ontario.

83428 Mar. 26—In the matter of application of Imperial Oil Limited for leave to construct a flow line across and under the pipe line of the Interprovincial Pipe Line Company in the Southwest quarter 29-49-21 W4M, Alberta.

83429 Mar. 26—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited showing the proposed location of storage tanks at Otterburne, Manitoba.

83430 Mar. 26—Authorizing the C.P.R. to reconstruct bridge No. 57·81 Teeswater Subdivision, Ontario.

83431 Mar. 26—Authorizing the C.P.R. to reconstruct the bridge at mileage 39·7 Yale Subdivision, British Columbia.

83432 Mar. 29—In the matter of application of The Best Foods (Canadian) Ltd., and others for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62.

83433 Mar. 29—Authorizing the C.N.R. to construct an additional track across Victoria Street, Edmundston, New Brunswick.

83434 Mar. 29—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Gervais Telephone System.

83435 Mar. 30—In the matter of application of the C.P.R. on behalf of Imperial Oil Company Limited for approval of temporary crude oil loading facilities at Wapella, Saskatchewan.

83436 Mar. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Wilson Station Telephone Company.

83437 Mar. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the Lachute East Mutual Telephone Association.

83438 Mar. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The North Bonnechere Telephone Association Ltd.

83439 Mar. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Tenth Concession Alice and Fraser Telephone Association Ltd.

83440 Mar. 30—Approving proposed location of storage tank, etc. of North Star Oil Limited, near C.N.R. at Miami, Manitoba.

83441 Mar. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Centreville Rural Telephone Association.

83442 Mar. 30—Authorizing the C.P.R. to make changes in the operating circuits at the crossing of Highway No. 31, mileage 87·8, Winchester Subdivision, Ontario.

83443 Mar. 30—In the matter of approval of plans submitted to the C.N.R. by the British American Oil Company, Limited showing the proposed location of loading and unloading points for the handling of jet fuel at Portage la Prairie, Manitoba.

83444 Mar. 31—Requiring the C.N.R. to install protection at the crossing of Highway No. 16 at mileage 73·5 Wabamun Subdivision, Alberta.

83445 Apr. 1—In the matter of application of Department of Roads for approval of plan showing protection at the crossing of 55th Avenue and the railway of the C.P.R., Lachine, Quebec.

83446 Apr. 1—Approving operation of C.P.R. trains over private siding serving Imperial Oil Limited, Trois-Rivieres, Quebec.

83447 Apr. 1—Authorizing the Alberta Department of Highways to widen Highway No. 16 where it crosses the C.P.R. near the City of Edmonton, Alta.

83448 Apr. 1—Restricting the speed of trains over C.P.R. crossing of Main Street, Minnedosa, Manitoba.

83449 Apr. 1—Requiring the C.N.R. to install protection at crossing of Merritt Street, Merritton, Ontario.

83450 Apr. 1—Authorizing the Chesapeake and Ohio Railway Company to install protection at private crossing of the Chrysler Corporation of Canada Limited at Windsor, Ontario.

83451 Apr. 1—Requiring the C.P.R. to install protection at the crossing of Highway No. 7, north of Town of Brampton, Ontario.

83452 Apr. 1—Authorizing the Northern Alberta Railways Company to remove the station agent and appoint a caretaker at Bon Accord, Alberta.

83453 Apr. 1—Authorizing the Northern Alberta Railway Company to remove the station agent and appoint a caretaker at Flatbush, Alberta.

83454 Apr. 1—Permitting the removal of slow Order at C.P.R. crossing, New Westminster, British Columbia.

83455 Apr. 1—Permitting the removal of slow Order at C.N.R. crossing of Castlefield Avenue, at Toronto, Ontario.

83456 Apr. 1—Permitting the removal of slow Order at C.N.R. crossing of Hardy Road west of Brantford, Ontario.

83457 Apr. 1—Permitting the removal of slow Order at C.N.R. crossing of Shaw Crescent Road east of Port Credit, Ontario.

83458 Apr. 1—Permitting the removal of slow Order at C.N.R. crossing north of the station at Exeter, Ontario.

83459 Apr. 2—Approving proposed location of storage tanks, etc. of C.N.R. near their track at Point St. Charles, Quebec.

83460 Apr. 2—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Elmsley South Rural Telephone Company Limited.

83461 Apr. 2—Approving Supplement to Service Station Contract between The Bell Telephone Company and the Indian River Telephone Company Limited.

83462 Apr. 2—Authorizing the Alberta Department of Highways to widen its highway where it crosses the C.P.R. at mileage 110·38, Hardisty Subdivision, Alberta.

83463 Apr. 2—Authorizing the C.P.R. to remove one bell at the crossing of its railway at Aylmer and Park Streets, Peterborough, Ontario.

83464 Apr. 2—Authorizing the C.N.R. to replace the span on the bridge over Riviere aux Chiens at mileage 18·73 Montmorency Subdivision, Quebec.

83465 Apr. 2—Authorizing the C.N.R. to replace the span on bridge over Sault a la Puce River, at mileage 15·74 Montmorency Subdivision, Quebec.

83466 Apr. 2—In the matter of application of Hudson's Bay Company for a licence under section 10 of the Transport Act.

83467 Apr. 2—In the matter of application of Trans-Canada Pipe Lines Limited for an Order to construct a pipe line for the transportation of natural gas from Niagara River to a point near Village of Allenburg, Ontario.

83468 Apr. 5—Authorizing the Department of Public Works of British Columbia to construct its highway across the C.N.R. near Black Pool, B.C.

83469 Apr. 5—Approving operation of C.P.R. trains over private siding serving the Western Chemicals Limited at mileage 6·0 on the industrial spur near Two Hills, Alberta.

83470 Apr. 5—In the matter of application of C.N.R. and C.P.R. for an Order amending Order No. 83369, dated March 18, 1954, which authorized the C.P.R. to operate the bridge crossing the main lines of the C.N.R. at mileage 301·88 Oshawa Subdivision, Ontario.

83471 Apr. 5—Permitting the removal of slow Order at C.P.R. crossing in the Village of Muniac, New Brunswick.

83472 Apr. 5—Approving proposed location of storage tank, etc., of North Star Oil Limited near C.N.R. track at Mervin, Saskatchewan.

83473 Apr. 5—Approving proposed location of additional storage tanks of Imperial Oil Limited near C.N.R. tracks at Brigden, Alberta.

83474 Apr. 5—Approving proposed location of storage tanks of Imperial Oil Limited, near tracks of C.N.R. at Smithers, British Columbia.

83475 Apr. 5—In the matter of application of Colonial Steamships Limited for a licence under section 10 of the Transport Act.

83476 Apr. 5—Authorizing the C.N.R. to make changes to the signals at the crossing of their railway and the railway of the C.P.R. at Woodstock, Ontario.

83477 Apr. 5—Authorizing the Canadian Northern Pacific Railway Company to construct a spur to serve Brachman Ker Milling Company across Leach Road, Municipality of Saanich, British Columbia.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

The Board of

Transport Commissioners for Canada

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ORDER No. 83423

In the matter of the application of the City of Edmonton for a re-hearing of the application of the Canadian Pacific Railway Company, dated October 30, 1930, which gave rise to Orders of the Board Nos. 47708 and 47759, dated November 18, 1931, and November 27, 1931, respectively, the latter Order authorizing the C.P.R. among other things to construct three additional tracks across 113th, 114th and 115th Streets and certain lanes in the City of Edmonton:

File No. 37661

FRIDAY, the 26th day of March, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

The evidence in this matter having been heard at Edmonton on October 27, 1953, by Mr. Commissioner F. M. MacPherson, authorized under section 12 of the Railway Act, in the presence of Counsel for the City of Edmonton, Canadian Pacific Railway Company, Canadian National Railways and other parties in person, and the said Commissioner having made a report to the Board recommending that the application of Canadian Pacific Railway Company as amended be granted, and the said report and recommendation (see Appendix "A" attached) having been adopted by the Board—

It is ordered

1. That Order No. 47759, dated November 27, 1931, be, and it is hereby, amended by:

(*a*) deleting in clause (*a*) of paragraph numbered 2 the words "as shown in green on the said plan and profile on file with the Board under file No. 37661" and substituting therefor the words "as shown in green on the plan and profile dated January 27, 1954, on file with the Board under file No. 37661";

(*b*) deleting in clause (*b*) of paragraph numbered 2 the words "and to construct three additional tracks at grade across the diverted portions of the said streets and lanes, as shown in red on the said plan and profile filed" and substituting therefor the words "and to construct additional tracks at grade across the diverted portions of the said streets and lanes, as shown in red on the said plan and profile dated January 27, 1954".

JOHN D. KEARNEY,
Chief Commissioner.

*(APPENDIX "A")

In the matter of the application of the City of Edmonton for a re-hearing of the application of the Canadian Pacific Railway Company, dated October 30, 1930, which gave rise to Orders of the Board Nos. 47708 and 47759, dated November 18, 1931, and November 27, 1931, respectively, the latter Order authorizing the C.P.R. among other things to construct three additional tracks across 113th, 114th and 115th Streets and certain lanes, in the City of Edmonton:

File No. 37661

REPORT

F. M. MacPherson, Commissioner:

By Order No. 47759, dated November 27, 1931, the Board authorized Canadian Pacific Railway Company, hereinafter called "Canadian Pacific"

(*a*) to divert portions of the road allowances on 113th, 114th and 115th Streets and lanes in Blocks 12, 13, 14 and 15 over a new street between 112th and 116th Streets, in the City of Edmonton, Province of Alberta, as shown in green on the said plan and profile on file with the Board under file No. 37661;

(*b*) after the said diversion is made to close within the limits of its right of way the portions of the existing streets and lanes, authority for the diversion of which is granted, and to construct three additional tracks at grade across the diverted portions of the said streets and lanes, as shown in red on the said plan and profile filed; and

(*c*) for the purpose of constructing the new street or avenue between 112th and 116th Streets, to take, without the consent of the owners, Lot 116, Block 14, and Lot 116, Block 15, Plan B-3, Hudson's Bay Reserve.

Canadian Pacific to date has not diverted the streets and lanes nor constructed the tracks but it acquired and owns the lands referred to in (*c*).

In 1932 the City of Edmonton, hereinafter called the "City", requested that the matter be reheard but the Board declined the request.

In May, 1953, the City again made an application for a re-hearing after it became aware that the Canadian Pacific intended to act on Order No. 47759.

By Order No. 82305, dated October 7, 1953, the Chief Commissioner, acting under section 12 of the Railway Act, authorized me to report to the Board upon questions and matters arising in connection with the said application, and pursuant to that order I heard evidence and argument on behalf of the interested parties on October 27, 1953, at Edmonton. Several interested parties appeared in person and Canadian Pacific, Canadian National Railways and the City were represented by Counsel.

The City and several of its residents asked that Order No. 47759, be rescinded and that the Board refuse to authorize Canadian Pacific to close the streets and road allowances and construct additional tracks across the highways. Canadian Pacific opposed those requests and asked that Order No. 47759 be confirmed but with an amendment which would have the effect of substituting a new plan in place of the plan referred to in the Order. The former plan called for three additional parallel tracks; the new plan shows a different track layout, a series of team tracks running off an industrial lead track, and a diversionary street 40 feet wide instead of 60 feet wide.

During the course of the hearing I suggested that Canadian Pacific and the City should inquire into the possibility of an exchange of lands to enable the team tracks to be constructed on a location satisfactory to both Canadian Pacific and the City. By letter dated February 12, 1954, Canadian Pacific

* See Board's Order No. 83423 dated March 26, 1954.

advised that the City is unable or unwilling on account of the cost to provide the railway company with suitable alternative land and that if the proposal for team tracks is refused Canadian Pacific is prepared to construct extra tracks on its own land from the existing spur leaving open the streets involved.

At present a single track spur owned and operated by Canadian Pacific runs east-west through the area concerned across 112th, 113th, 114th and 115th streets and the lanes above referred to as far as 116th street. That spur has been there at least since 1913. It is on a right of way which was previously granted by the City. The new tracks are proposed to be constructed on that same right of way. 104th Avenue lies immediately north of the right of way, the southern street line being coincident with the north boundary line of the right of way between 112th and 116th streets. The Canadian National Railway yards lie immediately north of 104th Avenue. Thus there are railway tracks immediately north and immediately south of 104th Avenue between 112th and 116th streets and there is nothing on either side of 104th Avenue between those streets except railway property.

If Canadian Pacific's application is granted the proposed industrial lead and team track facilities will replace the existing spur above referred to and the existing level crossings over the spur will be eliminated.

Evidence was given before me as to changes in circumstances and conditions in Edmonton since 1931. The City's population has increased greatly. There have been changes in property ownership in the area concerned, namely the area lying south of the Canadian Pacific's right of way and existing spur track, and new buildings have been erected there. The number of motor vehicle licences in the City have also greatly increased. The area has been designated residential by zoning by-law and in town planning plans presently being developed. Mr. Dant, Town Planner for the City, gave extensive evidence in respect of the area and as to the planning that is being developed. In his opinion the proposed team tracks are objectionable for the following principal reasons: they would be out of keeping with the residential character of the area; they would cause general nuisance, inconvenience, danger and depreciation in property values due to trucks operating and probably congesting on the residential streets in the area and perhaps encroaching on 104th Avenue and due to noise, smoke and vibration from operation of trains. Several residents of the area immediately south of the spur also objected to Canadian Pacific's proposal for various reasons, including alleged depreciation in the value of their properties that would result if the team track facilities are constructed, noise, smoke and vibration from the operation of trains and danger from trucks.

Officials of Canadian Pacific gave evidence as to the Company's proposal. They gave traffic counts of vehicles using the existing crossings which are proposed to be eliminated and the figures show that the crossings are busy. They also gave evidence that additional team tracks are necessary in order to handle the needs of the shipping public of Edmonton, particularly consignees of railway freight traffic in the warehousing area on the north side of the City and no other suitable location for the team track facilities is available.

At the hearing Canadian Pacific filed a plan as Exhibit 1 to explain certain changes that it was seeking in Order No. 47759. The plan was not in final form but was used to explain the proposed changes. As stated above the old proposal included a 66 foot wide diversionary street. Instead of the 66 foot wide street Exhibit 1 showed a 15 foot wide strip to be planted with hedge and a 20 foot wide paved street with a 5 foot wide sidewalk. The officials of Canadian Pacific also stated that the Company would erect a wire fence along the railway property. Canadian Pacific forwarded to the Board a new plan with its letter dated February 12, 1954, above referred to. The new plan is dated January 27, 1954, and is a final plan different in some respects to Exhibit 1 used at the hearing. The letter states that the new diversionary road shown on the plan will be 40 feet wide, instead of 66 feet, and that there

is provision for sidewalks, if required, a pavement 20 feet wide and a 10 foot wide strip on the north side of the street to be planted with a protective screen of a hedge or shrubs.

Counsel for the City contended that the proposed new street is not a diversion of any highway. That point was raised at the 1931 hearing and the Board at that time found that the new street was a diversion. I also regard it as a diversion.

Counsel for the City also stated that it is now the policy of the Board not to close highways unless and until the Municipality having control over such highways passes a by-law closing them. He may have had reference to the Board's ruling in file No. 38307, reported in 40 C.R.C. 87, that in future, except in the case of diversions, the Board will make no Order, authorizing the closing of public crossings, unless and until the Municipality has passed a by-law approving of same. That ruling, as is clear from a reading of it, does not apply in the case of diversions of highways and consequently does not apply here.

Counsel for the City also asked that if the Board grants Canadian Pacific's application it should impose conditions upon the operation of the tracks so as to provide that such operation will cause the least inconvenience and nuisance to the people who live in the immediate vicinity. I do not think that it is necessary or desirable to put any such conditions in an Order at this time. Some inconvenience and nuisance may be unavoidable from the very nature of railway operations but if unnecessary nuisance or inconvenience is caused the Board has power to deal with that situation if and when it arises.

On the whole I think that it is in the public interest to grant Canadian Pacific's application as amended and I so recommend. The additional team track facilities are needed by Canadian Pacific to adequately serve its consignees of freight in Edmonton and there is no other suitable and available location for such facilities. Canadian Pacific already has a right of way across the streets between 112th and 116th Streets and I consider that it would be in the interest of the public to authorize the proposed diversion and thus remove the difficulty which would result from the construction of the team tracks across the said streets without a diversion and closing of level crossings. The area that would suffer the most detriment from the construction of the tracks is an area that for the past forty years has been immediately adjacent to the existing Canadian Pacific's spur and is not far removed from other railway tracks.

OTTAWA, March 26, 1954.

FRANK M. MACPHERSON.

GENERAL ORDER No. 793

In the matter of fences on highway approaches to railway crossings:

File No. 30245

WEDNESDAY, the 31st day of March, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that General Order No. 501, dated July 19, 1932, be, and it is hereby, amended by striking out paragraph (*a*) of regulation No. 6 therein and substituting therefor the following paragraph:

"(*a*) A strong and substantial wire fence approximately four feet six inches high, with a board one and one-half inches by six inches fixed to the fence posts so that the top of the board is not more than three feet above the surface of the road, shall be erected on each side of every approach to a rural railway crossing over a highway where the height is five feet or more above the level of the adjacent ground, leaving always a clear road surface of at least twenty feet in width; provided, however, that the foregoing requirement shall not apply until March 31st, 1957, to crossings where protection fences in existence on March 31st, 1954, and complying with the Railway Act or any previous order of the Board relating to such fences continue to be maintained in accordance with section 269 of the Railway Act, and such fences shall have the approval of the Board until but not after March 31st, 1957."

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83531

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge February 23, 1954:

File No. 40994·52

WEDNESDAY, the 14th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated February 23, 1954, between the Canadian National Railways, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Essex Terminal Railway Company, The New York Central Railroad Company (Michigan Central District), Wabash Railroad Company and Ford Motor Company of Canada Limited on automotive parts and materials as specified therein, applicable between East Windsor, Oakville, Walkerville and Windsor, in the Province of Ontario, as specified therein, on file with the Board under file No. 40994·52, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 24th day of February, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83540

In the matter of the application of Mil-ko Products Limited, Dominion Preserving Co. Limited and Sherriff's Limited, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 14th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of The Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed for the following companies: Mil-ko Products Limited, Dominion Preserving Co. Limited and Shirriff's Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83592

In the matter of the application of E. E. Cooper of Fort Nelson, British Columbia, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·50

MONDAY, the 26th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 290 be issued to the Applicant for the period of one year terminating on the 9th day of February, 1955, licensing the following ship, namely

Vessel Name	*Official Registry Number*	*Gross Tonnage*
The Beaver 2	Not registered	Exceeding 10 tons

to transport goods by water between all ports and places on the Nelson and Liard Rivers situated between Fort Nelson, British Columbia, and Fort Simpson, N.W.T., inclusive.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83601

In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·32

MONDAY, the 26th day of April, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 289 be issued to the Applicant licensing for the period of one year commencing February 9, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

(*a*) Between Waterways and ports and places on Great Slave Lake and all intermediate points.

(*b*) Between ports and places on Lake Athabaska.

(*c*) Between ports and places on Lake Athabaska and ports and places described in (*a*) hereof.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Nor-Alta	158312	101
Nor-Basca	156571	30
Beaver Lake	171632	54
Cross Fox	157170	17
Liard River	150795	36
Dease Lake	156579	95

Barges	*Official Registry No.*	*Gross Tonnage*
MPC 21	175676	217
MPC 32	172331	195
MPC 33	175136	213
MPC 36	193252	350
HB 18	173710	53
HB 21	171649	195
HB 23	174968	192
HB 24	174969	64
HB 25	175551	64
HB 26	175552	149
HB 204	157172	275
HB 205	171648	271
HB 207	171634	169
HB 253	171637	190
HBC 208	175553	202

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, MARCH, 1954

Railway Accidents	155	Killed	12	Injured	157
Level Crossing Accidents	39	Killed	22	Injured	57
Total	194		34		214
Passengers			1		28
Employees			2		132
Others			31		54
Total			34		214

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEW BRUNSWICK
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 40936.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. 7-251-X.
		QUEBEC
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 76628.
—	2	Automobile ran into side of train. Licence: Que. 345-574.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 366-142.
—	1	Automobile stalled on crossing and was struck by train. Licence: Que. 63-632.
		ONTARIO
—	3	Automobile drove onto crossing in front of approaching engine and was struck. Licence not given.
—	1	Automobile ran into track motor car. Licence: Ont. 91-X-99.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Automobile ran into side of train. Licence: Ont. 2-F-717.
—	1	Automobile ran into side of train. Licence: Ont. HM-143.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 21-642-C.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-41-130.
4	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-9460.
—	1	Auto truck skidded onto crossing and was struck by train. Licence: Ont. 76-52-B.
—	6	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. DJ-471.
1	1	Automobile ran into side of train. Licence: Ont. 3854-P.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. P-8854.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 46-364-C.
1	11	Concrete mixer truck drove onto crossing in front of approaching train and was struck. Licence not given.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8-X-440.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 53-655-E.
—	1	Automobile ran into side of train. Licence: Ont. 6-N-349.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. Y-7351.
—	1	Automobile ran into standing track motor car. Licence: Ont. 1372-U.
—	2	Auto truck drove onto crossing and was struck by backing engine. Licence: Ont. LC-66747.
—	4	Automobile ran into side of train. Licence: Ont. 8-R-414.
—	1	Pedestrian walked onto crossing and was struck by train.

Killed	*Injured*		
		MANITOBA	
1	2	Automobile drove onto crossing in front of approaching train and was struck.	Licence: Man. 8-T-275.
2	—	Auto truck drove onto crossing in front of approaching train and was struck.	Licence: Man. 58-162.
		ALBERTA	
1	—	Automobile stalled on crossing and was struck by train.	Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck.	Licence: Alta. 43-E-30.
—	1	Automobile drove onto crossing in front of approaching train and was struck.	Licence: Alta. 3-E-731.
—	1	Automobile struck by track motor car.	Licence not given.
—	1	Automobile ran into side of train.	Licence: Alta. EY-381.
		BRITISH COLUMBIA	
3	1	Automobile drove onto crossing in front of approaching train and was struck.	Licence: B.C. 49-247.
—	1	Automobile ran into side of train.	Licence: B.C. H-3488.

Of the 39 accidents at highway crossings, 28 occurred at unprotected crossings, and 11 at protected crossings. Twenty-one occurred after sunrise and eighteen after sunset.

OTTAWA, Ont., April 27, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83478 Apr. 5—Authorizing the Bell Telephone Company of Canada to construct lines of telephone along public highway in the County of Kent, Ont.

83479 Apr. 5—In the matter of application of the Bell Telephone Company of Canada, to construct lines of telephone along certain public highways in the County of Kent, Ontario.

83480 Apr. 5—In the matter of application of the Bell Telephone Company of Canada, to construct lines of telephone along certain public highways in the Corporation of the Township of Harwich, in the County of Kent, Ontario.

83481 Apr. 5—In the matter of the application of the Bell Telephone Company of Canada, to construct its lines of telephone along certain public highways in the Corporation of the Township of Harwich, in the County of Kent, Ontario.

83482 Apr. 6—Permitting the removal of slow order at C.P.R. crossing of Jane Street, at Tremof (Metropolitan Area), Toronto, Ontario.

83483 Apr. 6—Approving under the Maritime Freight Rates Act tariffs filed by the C.N.R. under section 3.

83484 Apr. 6—Approving plan showing constructed relocations of Trans Mountain Oil Pipe Line Company within the Kamloops Division of the Yale District, Province of British Columbia.

83485 Apr. 6—Authorizing The Toronto Harbour Commissioners to construct a siding to serve Associated Quarries & Construction Limited, Toronto, Ontario.

83486 Apr. 6—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canada and Gulf Terminal Railway Company under section 8.

83487 Apr. 6—In the matter of the application of Upper Lakes and St. Lawrence Transportation Company Limited, for a licence under section 10 of the Transport Act.

83488 Apr. 7—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the C.P.R. under section 9.

83489 Apr. 6—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 82177, to install protection at crossing of Mountain Street, Granby, P.Q.

83490 Apr. 6—Permitting the removal of slow order at C.N.R. crossing of Lower Mountain Road, mileage 6·44 Sussex Subdivision, New Brunswick.

83491 Apr. 7—Extending the time within which the C.N.R. is to install protection at the crossing of Cascades Street, St. Hyacinthe, P.Q.

83492 Apr. 7—Approving proposed location of storage tank, etc., of C.P.R. near its tracks at Sutherland, Saskatchewan.

83493 Apr. 7—Approving proposed location of storage tanks, etc., of North Star Oil Limited near C.P.R. tracks at Pilot Mound, Manitoba.

83494 Apr. 7—Authorizing the C.N.R. to construct a siding to serve Dunlop Tire and Rubber Goods Company Limited, across Watson Street, in the Town of Whitby, Ontario.

83495 Apr. 7—Amending Order No. 83401, dated March 22, 1954.

83496 Apr. 7—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Tate, Saskatchewan.

83497 Apr. 7—Approving the loading of crude oil from tank trucks to tank cars, near the C.N.R. tracks at Coleville, Saskatchewan.

83498 Apr. 7—Approving block signals of C.N.R. between Jackman and Blue River, British Columbia.

83499 Apr. 8—In the matter of approval of plan submitted by the C.P.R. showing the proposed location of pumping facilities, etc., at Revelstoke, B.C.

83500 Apr. 8—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the C.P.R. under section 9.

83501 Apr. 8—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Noranda, P.Q.

83502 Apr. 8—Requiring the C.N.R. to install protection at the crossing of Ste. Helene Street, in the Town of Montreal South, P.Q.

83503 Apr. 9—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

83504 Apr. 9—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

83505 Apr. 9—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Broadview Subdivision, Province of Saskatchewan.

83506 Apr. 9—Permitting the removal of slow order at C.P.R. crossing of Main Street, Clive, Alberta.

83507 Apr. 9—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Estevan Subdivision, Province of Saskatchewan.

83508 Apr. 9—Permitting the removal of slow order at C.N.R. crossing, south of the station at St. Constant, P.Q.

83509 Apr. 9—Amending Order No. 83416, dated March 25, 1954, which authorized the City of Hamilton to extend Strathearne Avenue across the railway spur line serving the Hamilton Industrial Sites area, Hamilton, Ontario.

83510 Apr. 9—In the matter of approval of plan submitted to the C.N.R. by the Department of National Defence, showing the location for the unloading of flammable liquids at Parent, P.Q.

83511 Apr. 9—Permitting the removal of slow order at C.N.R. crossing, south of the station at Grande Ligne, P.Q.

83512 Apr. 9—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canadian Freight Association under sections 3 and 8.

83513 Apr. 9—Authorizing the Alberta Department of Highways to widen the highway where it crosses the pipe line of the Trans Mountain Oil Pipe Company, in the N.W. $\frac{1}{4}$ of 36-52-23-W5M, Alberta.

83514 Apr. 12—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under sections 3 and 8.

83515 Apr. 12—Approving revised plan showing protection as installed at the crossing of the C.N.R. and Highway No. 33 in the Parish of L'Epiphanie, County of L'Assomption, Province of Quebec.

83516 Apr. 12—Permitting the removal of slow order at C.P.R. crossing at Second Street, west of Crumlin, Ontario.

83517 Apr. 12—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Dominion Atlantic Railway Company under section 8.

83518 Apr. 12—Permitting the removal of slow order at C.P.R. crossing at Keoma, Alberta.

83519 Apr. 12—Permitting the removal of slow order at C.N.R. crossing, east of station at Tofield, Alberta.

83520 Apr. 12—Permitting the removal of slow order at C.N.R. crossing of Highway No. 4, east of switch at Bloom, in the Province of Manitoba.

83521 Apr. 13—Approving proposed location of Imperial Oil Limited storage tanks, near C.N.R. tracks at Eckville, Alberta.

83522 Apr. 13—Approving proposed location of pipe lines of Imperial Oil Limited, near the C.N.R. tracks at Entwistle, Alberta.

83523 Apr. 13—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Dominion Atlantic Railway Compay under section 8.

83524 Apr. 13—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Pacific Railway Company under section 8.

83525 Apr. 13—In the matter of consideration of automatic protection at the crossing of Third Street, Crumlin, Ontario, by the C.P.R.

83526 Apr. 13—Rescinding Order No. 82723, dated December 11, 1953, which removed the speed limitation at the crossing of 33rd Street, Saskatoon, Saskatchewan, by the C.N.R.

83527 Apr. 14—Permitting the removal of slow order at C.N.R. crossing of Queen Street, Brampton, Ontario.

83528 Apr. 14—Permitting the removal of slow order at C.N.R. crossing at Provincial Highway No. 7, near Sunderland, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORAL JUDGMENT DELIVERED AT THE HEARING OF THE FOLLOWING APPLICATION IN OTTAWA, APRIL 27, 1954

In the matter of the application of Trans-Canada Pipe Lines Limited, hereinafter called the "Applicant Company", under sections 11 and 12 and other relevant sections of the Pipe Lines Act, for an Order granting leave to Trans-Canada Pipe Lines Limited to construct a pipe line for the transportation of natural gas from a point on the international boundary in the Niagara River approximately three miles north of the Lewiston Bridge, continuing approximately in a south-westerly direction to a point north of the Village of Allenburg and thence generally in a westerly direction passing through the Counties of Lincoln and Wentworth to the vicinity of the Village of Ancaster; from this point the line will continue northerly across the Dundas Marshes changing to north-easterly through Halton County and terminating at the westerly boundary of Peel County near the Village of Sheridan.

File No. 45371·20·1

THE CHIEF COMMISSIONER:

This is an uncontested application for leave to construct a natural gas pipe line made by Trans-Canada Pipe Lines Limited. During the hearing its wholly owned subsidiary, Western Pipe Lines, joined with it in the application.

We are satisfied that the directions of the Board's Order No. 83467, which fixed the date of this hearing and gave directions for service of copies of the application and publication of notice, have been fully complied with.

The Board has had the benefit of examining the brief and submissions of the applicants in advance of the hearing.

The proof which has been placed on the record today has established to our satisfaction the financial responsibility of the applicants.

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With respect to financing, there is no question of an issue of securities or stock to the public, and two of the large Canadian banks have undertaken to lend the money to construct the pipe line at current rates of interest.

The availability of sufficient gas to adequately supply Canadian consumers and the necessary gas reserves have been fully established by evidence of competent experts and contracts and documents on file. Another essential in a project of this kind is proof of marketability under conditions satisfactory to Canadian consumers, and we are satisfied that by means of this project, when completed, gas consumers to be served by this line, particularly those in and about Toronto, will have the advantage of receiving natural, instead of artificial, gas at prices below those presently prevailing in the area.

The continuity of the supply of gas is likewise reasonably assured, and we feel that the interests of the Canadian gas consuming public involved will be adequately protected.

The gas is to come from fields in Louisiana and Texas purchased by Niagara Gas Transmission Limited, a company incorporated by Letters Patent issued under and pursuant to the provisions of the Companies Act of the Province of Ontario and which has authority of Parliament to construct, own and operate an extra-provincial pipe line. The pipe line will cross the international boundary at a point in the Niagara River about three miles north of the Lewiston Bridge and thence will circle the westerly end of Lake Ontario and terminate near the village of Sheridan, Ontario.

As I noted this morning, Niagara Gas Transmission Limited and Tennessee Gas Transmission Company, a responsible and experienced corporation, have obtained all necessary permits from authorities in the United States to enable the Niagara Company to export the necessary gas from the United States and to enable the Tennessee Company to construct the necessary pipe line facilities for the transportation of the gas to the pipe line covered by this application.

The construction program for the facilities in the United States has progressed to a degree that makes it reasonably probable that gas will be available on or before November 1st next if this application is granted.

It has been urged upon us that time is of the utmost importance and that not a day should be lost if it can be avoided, and that the line should be completed by November 1st next at the latest in order to meet contract commitments in respect of the gas.

The Board is anxious, of course, to avoid any unnecessary delays and has noted that there were unavoidable delays before this application could be made to the Board.

This application is designed to fit in with another projected application involving a new source of supply of gas from Alberta in lieu of gas from the United States within a period of five years.

I might here note that with respect to future contracts, it is indicated that in five years' time there may be either a lease or sale consummated. Section 10 of the Pipe Lines Act provides that a company shall not, without leave of the Board, sell, convey or lease to any person its company pipe line, in whole or in part. So we cannot give this permission in advance, and we do not propose to deal with it at the present time; however, it is understood that at the conclusion of a five-year period it will be in order for the company to seek the approval of the Board to the project, whether their decision is to handle it by way of lease or sale.

As I have said, this application is designed to fit in with another projected application involving a new source of supply from Alberta, in lieu of gas from the United States, within a period of five years.

The Board is satisfied, however, that if for any reason the substitution of Canadian gas does not materialize as contemplated, the present project can stand on its own feet and is one which is calculated to be beneficial to the Canadian gas consuming public concerned.

Normally, the Board would not be disposed to approve of an application of this kind until the required export permit had been granted allowing the applicants to bring gas from the Alberta fields to Eastern Canada. In this connection we have heard evidence that there is reasonable ground to assume that the foregoing permit will be forthcoming in mid-May. Even if that permit should fail to materialize it is not necessary or desirable that we withhold our approval of this application pending the outcome of the request for such permit because the present project is self-contained and is not dependent on the obtaining of such permit.

Evidence was given in respect of all matters which appear to us to be relevant and we are of the opinion that the applicants have made out a satisfactory case and that it is in the public interest that the application be granted.

I also think that the project is one which is calculated to increase commercial relationships with our neighbours to the south and is in keeping with Canada's national policy.

I would point particularly to the evidence of Dr. John Davis, who is a competent witness to give expression to the government policy in this respect.

This is an oral judgment which is given from sketchy notes, and it may be in some respects not strictly accurate in detail; but when we get the transcript of it and as and when any errors or omissions are noted, they will be corrected.

In the meantime we are prepared to issue an order forthwith granting leave to Trans-Canada Pipe Lines Limited and Western Pipe Lines to construct the pipe line requested in this application.

Mr. TOLMIE: Thank you, my lord. I just wish to point out that Mr. Kerr has indicated to me that there may be some confusion with respect to the time when we will apply to the Board first for the right to lease this line. Fairly shortly after the line is built we intend to apply to the Board for the right to lease it to the Niagara Company, and at the end of five years, if we sell it to Niagara, we will again have to apply to the Board for permission to sell.

The CHIEF COMMISSIONER: In the order which we will grant we will, as usual, fix some time limit for completion, and if it is not unreasonable to the applicant, I would suggest fixing a date as of 31st December, 1954.

Mr. TOLMIE: I have consulted with the engineer, and that is perfectly satisfactory.

The CHIEF COMMISSIONER: The hearing is adjourned.

ORDER No. 83618

In the matter of the application of Trans-Canada Pipe Lines Limited, hereinafter called the "Applicant Company", under sections 11 and 12 and other relevant sections of The Pipe Lines Act, for an Order granting leave to Trans-Canada Pipe Lines Limited to construct a pipe line for the transportation of natural gas from a point on the international boundary in the Niagara River approximately three miles north of the Lewiston Bridge, continuing approximately in a south-westerly direction to a point north of the Village of Allenburg and thence generally in a westerly direction passing through the Counties of Lincoln and Wentworth to the vicinity of the Village of Ancaster; from this point the line will continue northerly across the Dundas Marshes changing to north-easterly through Halton County and terminating at the westerly boundary of Peel County near the Village of Sheridan:

File No. 45371·20·1

TUESDAY, the 27th day of April, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Ottawa, on April 27, 1954, in the presence of Counsel for Trans-Canada Pipe Lines Limited and Western Pipe Lines, The Bell Telephone Company of Canada, the County of Lincoln and Canadian Bechtel Limited—

It is ordered that leave be, and it is hereby, granted to Trans-Canada Pipe Lines Limited and Western Pipe Lines to construct a pipe line consisting of one or more lines of pipe for the transportation of natural gas from a point on the international boundary in the Niagara River approximately three miles north of the Lewiston Bridge, continuing approximately in a south-westerly direction to a point north of the Village of Allenburg and thence generally in a westerly direction passing through the Counties of Lincoln and Wentworth to the vicinity of the Village of Ancaster; from this point the line will continue northerly across the Dundas Marshes changing to north-easterly through Halton County and terminating at the westerly boundary of Peel County near the Village of Sheridan; the general location of the pipe line being as shown on the map dated April 27, 1954, filed with the Board under file No. 45371·20·1; the said pipe line to be constructed and completed on or before the 31st day of December, 1954.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83529 Apr. 14—Authorizing the C.N.R. to reconstruct the timber bridge over the creek at mileage 53·4 Skeena Subdivision, British Columbia.

83530 Apr. 14—In the matter of application of C.N.R. for approval of plan showing automatic protection as installed at crossing known as Eighth Line Road Crossing, east of Oakville Station, Ontario.

83531 Apr. 14—In the matter of application of Canadian Freight Association for approval of an agreed charge, dated February 23, 1954, on automotive parts and materials.

83532 Apr. 14—Authorizing the C.N.R. to reconstruct their timber bridge over creek at mileage 34·58 Skeena Subdivision, British Columbia.

83533 Apr. 14—Authorizing the Grand Trunk Pacific Railway Company to construct its spur to serve Metals Limited along 121st Street in the City of Edmonton, Alberta.

83534 Apr. 14—Authorizing the C.P.R. to reconstruct three piers in Bridge No. 83·18, Nelson Subdivision over the Kootenay River at Kootenay Landing, British Columbia.

83535 Apr. 14—Permitting the removal of slow order at C.N.R. crossing of Ridout Street at London, Ontario.

83536 Apr. 14—Authorizing the C.P.R. to operate under the overhead bridge over C.P.R. in line with Notre Dame Street, Montreal, P.Q.

83537 Apr. 14—Permitting the removal of slow order at C.P.R. crossing west of Norwood, Ontario.

83538 Apr. 14—Permitting the removal of slow order at C.N.R. crossing west of station at Finchley, Ontario.

83539 Apr. 14—Permitting the removal of slow order at C.P.R. crossing east of station at Martin, Ontario.

83540 Apr. 14—In the matter of application of Mil-ko Products Limited, Dominion Preserving Company Limited and Shirriff's Limited for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board.

83541 Apr. 14—Authorizing the C.P.R. to construct a private siding to serve the Dominion Glass Company Limited across North Queen Street, Township of Etobicoke, Ontario.

83542 Apr. 14—Requiring the C.P.R. to install protection at crossing of private road of Standard Oil Company of B.C. at mileage 123·7, Cascade Subdivision, British Columbia.

83543 Apr. 14—In the matter of application of C.N.R. for approval of plan showing crossing of their railway and the narrow gauge railway of Sherritt Gordon Mines Limited at Lynn Lake, Manitoba, etc.

83544 Apr. 14—Authorizing the Crow's Nest Pass Coal Company Limited to construct a narrow gauge railway bridge over the C.P.R. near Michel, British Columbia.

83545 Apr. 15—Permitting the removal of slow order at C.P.R. crossing west of Maunsell, Alberta.

83546 Apr. 15—Permitting the removal of slow order at crossing of New York Central Railroad Company and King Street, Welland, Ontario.

83547 Apr. 15—Approving under the Maritime Freight Rates Act tolls filed by the Canadian Freight Association under sections 3 and 8.

83548 Apr. 15—Authorizing the C.N.R. to remove the combination station and freight shed building at Fallowfield, Ontario.

83549 Apr. 15—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Nipissing Private Telephone Line.

83550 Apr. 15—Authorizing the C.P.R. to replace the existing pile trestle with metal culvert pipes at mileage 86·6 Napinka Subdivision.

83551 Apr. 15—Authorizing the C.N.R. to operate their trains through the interlocking at mileage 0·25 to mileage 0·5 Batiscan Subdivision, Province of Quebec.

83552 Apr. 20—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Balsam Hill Telephone Company Limited.

83553 Apr. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Deloraine, Manitoba.

83554 Apr. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Humboldt, Saskatchewan.

83555 Apr. 20—Authorizing the B.C. Department of Public Works to relocate the overhead bridge over the C.N.R. at mileage 23·96 Skeena Subdivision, British Columbia.

83556 Apr. 20—Authorizing the Sherritt-Gordon Mines Limited to construct and maintain wood stave pipe lines under its private siding and the main line of the C.N.R. at Lynn Lake, Manitoba.

83557 Apr. 20—Authorizing the C.P.R. to construct a private siding to serve Tide Water Associated Oil Company across the highway near Dollard, Saskatchewan.

83558 Apr. 20—Authorizing the C.N.R. to construct a third yard track across Verulam Road, Township of Ops, Ontario.

83559 Apr. 20—Authorizing the B.C. Department of Public Works to close Weller Road where it crosses the C.N.R. near Newlands Station, B.C.

83560 Apr. 21—Authorizing the C.N.R. to operate under the overhead bridge at Guy Street, Montreal, P.Q.

83561 Apr. 21—Authorizing the C.N.R. to operate under the overhead bridge on Lagauchetiere Street, Montreal, P.Q.

83562 Apr. 21—In the matter of additional protection at the crossing of the C.P.R. and C.N.R. and Morris Avenue, Gladstone, Manitoba.

83563 Apr. 21—Authorizing the C.N.R. to use the subway at St. Antoine Street, Montreal, P.Q.

83564 Apr. 21—In the matter of application of Alberta Department of Highways for an order extending the time within which the C.P.R. was required to install certain protection at the crossing of the Trans-Canada Highway at mileage 6·0 Langdon Subdivision, Alberta.

83565 Apr. 21—Approving under the Maritime Freight Rates Act tolls published in supplement filed by the Canadian Freight Association under sections 3 and 8.

83566 Apr. 21—Authorizing the N.Y.C. Railroad Company and the C.N.R. to operate their trains through the interlocking at the crossing of their railways at Welland, Ontario.

83567 Apr. 22—Permitting the removal of slow order at C.P.R. crossing at Dixie Road at Dixie, Ontario.

83568 Apr. 22—Authorizing the C.P.R. to use the bridge over Oxford Street, London, Ontario.

83569 Apr. 22—In the matter of application of C.N.R. for an order extending the time within which it was required by Order No. 82382, dated October 19, 1953, to install protection at the crossing of Second Avenue West near 17th Street, Prince Albert, Saskatchewan.

83570 Apr. 22—In the matter of application of Interprovincial Pipe Line Company for leave to grant, convey etc., its company pipe line to The Royal Trust Company.

83571 Apr. 22—In the matter of application of the Interprovincial Pipe Line Company for orders granting leave to construct its company pipe line and sections and parts thereof.

83572 Apr. 23—Permitting the removal of slow order at C.P.R. crossing west of Brighton, Ontario.

83573 Apr. 22—Authorizing the Municipal Corporation of the Town of Fort Erie to construct a bridge at Central Avenue across the N.Y.C. Railroad Company and the C.N.R. in the Town of Fort Erie, Ontario.

83574 Apr. 23—Exempting the C.P.R. from erecting fencing between certain mileages on its Carberry Subdivision, Manitoba.

83575 Apr. 23—Authorizing the C.P.R. to construct a private siding to serve Dowell Incorporated in the Manchester Industrial Area at Calgary, Alberta.

83576 Apr. 23—Authorizing the C.P.R. to construct a private siding to serve Clark Homes Limited across River Road at Haney, British Columbia.

83577 Apr. 23—Approving proposed location of pipe lines, etc., of Imperial Oil Limited near C.P.R. tracks at Winfield, Alberta.

83578 Apr. 23—Authorizing the C.N.R. to cross St. Clair Street with a new lead to siding serving F. E. Shaw Limited, Sarnia, Ontario.

83579 Apr. 23—Permitting the removal of slow order at Highway No. 17, mileage 2·95, Furness Subdivision, Saskatchewan.

83580 Apr. 23—Restricting the speed of C.P.R. trains at crossing of Francis Street, Sault Ste. Marie, Ontario.

83581 Apr. 23—Permitting the removal of slow order at C.P.R. crossing south of station at Leduc, Alberta.

83582 Apr. 23—In the matter of approval of plan submitted to the C.P.R. by Shell Oil Company of Canada Limited showing proposed location of storage tanks, etc., at Little Current, Ontario.

83583 Apr. 23—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under section 3.

83584 Apr. 23—Relieving the C.P.R. from erecting fencing between certain mileages on its Emerson Subdivision, Manitoba.

83585 Apr. 23—Relieving the C.P.R. from erecting fencing between certain mileages on its Gretna Subdivision, Manitoba.

83586 Apr. 26—Relieving the C.P.R. from maintaining fencing between certain mileages on its Minnedosa Subdivision, Manitoba.

83587 Apr. 26—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Napinka Subdivision, Manitoba.

83588 Apr. 26—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Winnipeg Beach Subdivision, Manitoba.

83589 Apr. 26—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Glenboro Subdivision, Manitoba.

83590 Apr. 26—Approving proposed location of storage tanks, etc., of the C.N.R. near their tracks at Hanna, Alberta.

83591 Apr. 26—Authorizing the Sun Oil Company Limited to construct an oil pipe line under the spur track of the C.N.R. north of Burlington Street, Hamilton, Ontario.

83592 Apr. 26—In the matter of application of E. E. Cooper of Fort Nelson, B.C., for a licence under section 10 of the Transport Act.

83593 Apr. 26—In the matter of application of C.P.R. for an order extending the time within which it was required by Order No. 82647, dated November 26, 1953, to construct a branch line of railway.

83594 Apr. 26—Relieving the C.P.R. from erecting fencing between certain mileages on its La Riviere Subdivision, Manitoba.

83595 Apr. 26—In the matter of application of C.P.R. for approval of extension of operating circuits for protection at the crossing of the highway and its railway at Beaconsfield, P.Q.

83596 Apr. 26—In the matter of application of the C.P.R. for an order extending the time within which it was required by Order No. 82423, dated October 22, 1953, to install protection at the crossing of First Line East, Township of Toronto, Ontario.

83597 Apr. 26—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Commissioners for the Telephone System of the Municipality of the Township of North Norwich.

83598 Apr. 26—Authorizing the C.P.R. to operate over the private siding serving Canadian Canners (Western) Limited across 69th Avenue, Vancouver, British Columbia.

83599 Apr. 26—Authorizing the C.P.R. to use the subway at 4th Street West, Calgary, Alberta.

83600 Apr. 26—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at McConnell, Manitoba.

83601 Apr. 26—In the matter of application of McInnes Products Corporation Limited, Edmonton, Alberta, for a licence under section 10 of the Transport Act.

83602 Apr. 26—Authorizing the C.P.R. to lengthen the operating circuits for the protection of crossing at Main Street, in the Village of Chesterville, Ontario.

83603 Apr. 26—Authorizing the Northwestern Utilities Limited, to construct a gas pipe line across and over the pipe line of the Trans-Mountain Oil Pipe Line Company in the N.E. $\frac{1}{4}$ of Section 14-52-24, W4M, as shown on plan on file with the Board.

83604 Apr. 26—Approving location and details of station proposed to be erected by the C.N.R. at Merivale, Ontario.

83605 Apr. 26—Permitting the removal of slow order at C.P.R. crossing of Midland Avenue, west of Agincourt, Ontario.

83606 Apr. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Delia, Alberta.

83607 Apr. 27—Restricting the speed of C.P.R. trains at crossing of Neill Street, Fredericton, New Brunswick.

83608 Apr. 27—Permitting the removal of slow order at C.P.R. crossing at mileage 98·1, Cranbrook Subdivision, British Columbia.

83609 Apr. 27—Authorizing the City of Winnipeg to construct Spruce Street across the C.P.R. and the Midland Railway Company, Winnipeg, Manitoba.

83610 Apr. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Edberg, Alberta.

83611 Apr. 27—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near tracks of the Dominion Atlantic Railway Company at Yarmouth, Nova Scotia.

83612 Apr. 27—Authorizing the C.N.R. to reconstruct the timber bridge over Roblin Creek, Manitoba.

83613 Apr. 27—Authorizing the C.P.R. to install an electric interlocking at the crossing of its railway at mileage 119·18 Keewatin Subdivision and the Victoria Beach Subdivision of the C.N.R. at Norcan, Manitoba.

83614 Apr. 27—Authorizing the Bell Telephone Company of Canada to construct its line along and over certain highways in the Township of Chatham, County of Kent, Ontario.

83615 Apr. 27—Authorizing the Bell Telephone Company of Canada to construct its line of telephone over and along certain public highways in the Township of Chatham, Ontario.

83616 Apr. 27—Approving appendix to Traffic Agreement between the Bell Telephone Company of Canada and the Mansonville Utilities Ltd.

83617 Apr. 27—Extending the time for installation of protection at the crossing of the C.N.R. at Prince Street, in the City of Sorel, P.Q.

83618 Apr. 27—In the matter of application of the Trans-Canada Pipe Lines Limited, for an order granting leave to construct a pipe line for the transportation of natural gas from the Niagara River near Lewiston Bridge, Ontario, to the Village of Allenburg and westerly passing through the Counties of Lincoln and Wentworth to the vicinity of the Village of Ancaster, etc.

83619 Apr. 27—Approving appendix to Traffic Agreement between the Bell Telephone Company of Canada and La Corporation de Téléphone de Québec (Division de l'Est).

83620 Apr. 27—Permitting the removal of slow order at C.P.R. crossing of Church Street at Val David, P.Q.

83621 Apr. 27—Permitting the removal of slow order near C.P.R. crossing of Horner Avenue east of Canpa, Ontario.

83622 Apr. 27—Permitting the removal of slow order at C.N.R. crossing of Drummond Road, west of the City of Niagara Falls, Ontario.

83623 Apr. 27—Relieving the C.P.R. from erecting cattle guards at certain crossings in the Provinces of Manitoba and Saskatchewan, on its Arcola Subdivision.

83624 Apr. 27—Authorizing the C.P.R. to install automatic protection at Regina, Saskatchewan.

83625 Apr. 27—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Back Line Telephone Company Limited.

83626 Apr. 27—Authorizing the C.N.R. to cross Hugh Street, in the Town of Arnprior, Ontario, with an extension of the team track south of the main track.

83627 Apr. 28—In the matter of the application of the City of Sault Ste. Marie, Ontario, for an order authorizing the C.P.R. to install certain protection at the crossings of John Street and Wellington Street.

83628 Apr. 28—Authorizing the Municipal District of Flagstaff No. 62, Alberta, to relocate the existing crossing of the highway and the C.P.R. near the Town of Hardisty, Alberta.

83629 Apr. 28—Exempting the C.N.R. from erecting right of way fencing between certain mileages on their Brazeau Subdivision, Alberta.

83630 Apr. 28—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83631 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Telephone System of the Municipality of the Village of Coldwater.

83632 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Thamesville Telephone Company Limited.

83633 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Fingal Telephone Company Ltd.

83634 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Cameron Telephone Company Limited.

83635 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Township of Bentinck Municipal Telephone System.

83636 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Sparta Telephone Company Ltd.

83637 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Wilmot.

83638 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Lambton Telephone Company.

83639 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Southwold and Dunwich Telephone Association Limited.

83640 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Harwood Rural Telephone Company Limited.

83641 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Sunderland Telephone Company Limited.

83642 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The West Williams Rural Telephone Association Limited.

83643 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Cold Springs Rural Telephone Company Limited.

83644 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Everett Telephone Company Limited.

83645 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Oro Telephone Company Ltd.

83646 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Mornington.

83647 Apr. 28—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Yarmouth Rural Telephone Company Limited.

83648 Apr. 28—Authorizing the C.N.R. to relocate a portion of its existing line of railway between Linwood, Nova Scotia, and Inverness Junction, Nova Scotia, lying on the Canso Causeway, etc.

83649 Apr. 28—In the matter of the application of the C.N.R. for approval of plan showing the highway underpass, as constructed 70 feet east of the Kelvin Underpass, at Kelvin, Prince Edward Island.

83650 Apr. 29—Approving proposed location of pipe lines, etc, of Canadian Pacific Railway Company near its tracks at Chapleau, Ontario.

83651 Apr. 29—In the matter of approval of plan submitted to the C.P.R., by the Kyle Co-Operative Association Limited, showing the proposed location of storage tanks, etc., at Kyle, Saskatchewan.

83652 Apr. 29—Approving proposed location of storage tanks, etc., of Imperiol Oil Limited, near C.N.R. tracks at Wakaw, Saskatchewan.

83653 Apr. 29—Relieving the C.N.R. from erecting right of way fencing at certain mileages on the north side of their Drumheller Subdivision, Alberta.

83654 Apr. 29—Exempting the C.N.R. from erecting right of way fencing at certain mileages on their Three Hills Subdivision, Alberta.

83655 Apr. 29—Relieving the C.N.R. from erecting right of way fencing at certain mileages on its Amiens Subdivision, Saskatchewan.

83656 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Minesing Telephone System.

83657 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Ivy-Thornton Telephone Company Limited.

83658 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Flos.

83659 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Cambray Telephone Company Limited.

83660 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Belmont Telephone Co-operative Association Limited.

83661 Apr. 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Vauxhall, Alberta.

83662 Apr. 29—In the matter of the application of the C.N.R. for an order amending Order No. 81359 dated May 9, 1953.

83663 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Cramahe.

83664 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Haldimand.

83665 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Little Britain Telephone Company Limited.

83666 Apr. 29—Approving proposed location of storage tanks, etc., of the Hudson Bay Co-operative Association Limited, near the C.N.R. tracks at Hudson Bay, Saskatchewan.

83667 Apr. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Dummer.

83668 Apr. 29—Approving proposed location of storage tanks, etc., of the Dominion Rubber Company Limited, near the C.N.R. tracks at Kitchener, Ont.

83669 Apr. 30—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Oakwood Telephone Company Limited.

83670 Apr. 30—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the West Garafraxa Telephone Co-operative Association Limited.

83671 Apr. 30—Approving under the Maritime Freight Rates Act tolls published in Supplement No. 11 to Tariff C.T.C. No. 1220 filed by the Dominion Atlantic Railway Company under section 8.

83672 Apr. 30—Approving supplement to Traffic Agreement between the Bell Tele-Telephone Company of Canada and the Commissioners for the Telephone System of the Municipality of the Township of Brighton.

83673 Apr. 30—Authorizing the C.N.R. to replace the existing interlocker at the crossing of the C.P.R. near Deer, Manitoba.

83674 Apr. 30—In the matter of the application of the City of Galt, Ontario, for an order amending Order No. 55403, dated January 3, 1938, which approved the installation of automatic protection at the crossing of the C.N.R. and the Grand River Railway on Highway No. 24.

83675 Apr. 30—Approving Service Station Contract between the Bell Telephone Company of Canada, and The Stroud Telephone Company Limited.

83676 Apr. 30—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Stroud Telephone Company Limited.

83677 Apr. 30—Authorizing the C.P.R. to make changes in the operating circuits, etc., at the crossing of its railway and Missisquoi Road, at Iberville, Quebec.

83678 Apr. 30—Authorizing the City of Armstrong, B.C., to construct a pedestrian crossing across the right of way of the C.P.R., in the City of Armstrong, British Columbia.

83679 Apr. 30—Authorizing the City of Medicine Hat, Alberta, to carry a gas pipe line of the C.P.R. through a duct located below the west sidewalk of the subway at First Street, Medicine Hat, Alberta.

83680 Apr. 30—Authorizing the C.P.R. to construct a private siding to serve MacMillan and Bloedel Limited, across South Kent Road and Cromwell Street in the City of Vancouver, British Columbia.

83681 Apr. 30—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing their facilities for loading crude oil at Smiley, Saskatchewan.

83682 Apr. 30—Permitting the removal of slow order near C.N.R. crossing west of the station at Wales, Ontario.

83683 May 3—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under sections 3 and 8.

83684 May 3—Authorizing the C.P.R. to remove the caretaker at Mowbray, Man.

83685 May 3—In the matter of additional protection at C.N.R. crossing of Ellice Avenue, in the Town of St. James, Manitoba.

83686 May 3—Permitting the removal of slow order at C.N.R. crossing of Perth Street, Brockville, Ontario.

83687 May 3—Permitting the removal of slow order at C.N.R. crossing of Booth Street, Ottawa, Ontario.

83688 May 3—Authorizing the C.N.R. to operate through the interlocking at the crossing of their railways near Tillsonburg, Ontario.

83689 May 3—In the matter of the application of the City of Hamilton, Ontario, for an order authorizing the installation of automatic protection at the crossings of the C.N.R. and Hunter, Jackson, Rebecca and Wilson Streets, Hamilton, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV JUNE 15, 1954 No. 6

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, $3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 83753

In the matter of the application of the Yellowknife Transportation Company, hereinafter called the "Applicant Company", for a licence under section 10 of the Transport Act:

File No. 42076·31

MONDAY, the 17th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 291 be issued to the Applicant Company licensing for the period of one year commencing February 9, 1954, the following ships to transport goods by water between all ports and places in Canada accessible by navigation to the said vessels, on the Mackenzie River, Great Slave Lake and Slave River, Fort Smith, N.W.T. and north thereof.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Sandy Jane	177764	95·92
Richard E	179446	105·10
YTC #101	177761	233·76
YTC #102	177762	233·76
YTC #104	190800	233·06
Saline	192902	22·20
YTC #15	Not Registered	250·00
YTC #16	Not Registered	250·00
YTC #106	156749	195·49
YTC #105	179634	189·07

HUGH WARDROPE,
Assistant Chief Commissioner.

89371

ORDER No. 83774

In the matter of the application of Metcalfe Foods Limited, Dominion Dairies Limited, Cruickshank-Guild Limited and Graham Food Products Limited, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 19th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of The Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed for the following companies: Metcalfe Foods Limited, Dominion Dairies Limited, Cruickshank-Guild Limited and Graham Food Products Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83778

In the matter of the application of the Canadian Freight Association dated April 14, 1954, for approval of Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 45:

File No. 40994·34

WEDNESDAY, the 19th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 45, be, and it is hereby, approved; and that the date from which the said Supplement No. 5 shall become operative is hereby fixed as April 15, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83830

In the matter of the application of the Cayuga Steamship Company Limited, hereinafter called the "Applicant Company", for a licence under section 10 of the Transport Act:

File No. 42076·52

FRIDAY, the 28th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 292 be issued to the Applicant Company for the period of one year commencing on the 15th day of January, 1954, licensing the following ship, namely:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Cayuga	122219	2196

to transport passengers and/or goods by water between the following ports or places:

Toronto,

Niagara-on-the-Lake,

Queenston,

all in the Province of Ontario.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, APRIL, 1954

Railway Accidents	141	Killed	14	Injured	155
Level Crossing Accidents ...	16	Killed	10	Injured	15
Total	157		24		170

	Killed	*Injured*
Passengers	1	30
Employees	3	114
Others	20	26
Total	24	170

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Nova Scotia

Killed	*Injured*	
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-4144.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-31427.

Quebec

4	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. N-21197.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.

Ontario

—	1	Automobile ran into side of train. Licence: Ont. M-2414.
3	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9296-C.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 89497-B.
1	—	Automobile ran into side of train. Licence: Ont. 7876-Z.
—	2	Automobile ran into side of train. Licence: Ont. 761-R-2.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AB-324.
—	1	Auto truck ran into side of train. Licence: Ont. 75-909-B.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 71-M-24.
—	1	Automobile drove onto crossing in front of backing train and was struck. Licence: Ont. 9V535.

Alberta

1	—	Truck trailer drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-12569.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 65-K-95.

British Columbia

—	2	Automobile ran into side of train. Licence: B.C. 67-434.

Of the 16 accidents at highway crossings, 11 occurred at unprotected crossings, and 5 at protected crossings. Eleven occurred after sunrise and five after sunset.

Ottawa, Ontario,
May 27, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83690 May 3—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

83691 May 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83692 May 4—In the matter of apportionment between the County of Kent, Ontario, and the New York Central Railroad Company of the cost of relocating the protective signals, etc., at the crossing of the County Road in the Township of Raleigh, Ontario.

83693 May 4—Requiring the C.N.R. to install protection at their crossing at Brookfield, Nova Scotia.

83694 May 5—Approving plan, profile and book of reference of the C.P.R. line of railway from Belmont to Nephton, Ontario.

83695 May 5—Authorizing the C.N.R. to use the bridge at mileage 65·2 Brazeau Subdivision, Alberta.

83696 May 5—Approving revised Appendix to Traffic Agreement, between The Bell Telephone Company and La Corporation de Téléphone de Québec.

83697 May 6—Authorizing the Eton Township Road Commission, Ontario, to improve the sight lines at the crossing of the highway and the railway of the C.P.R. at mileage 71·0 Ignace Subdivision, Ontario.

83698 May 6—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 14, in the suburb of Edmonton, Alberta.

83699 May 6—Authorizing the Saskatchewan Department of Highways and Transportation to relocate and widen its highway where it crosses the C.P.R. at mileage 0·94 Prince Albert subdivision, Saskatchewan.

83700 May 6—Permitting the removal of slow order at C.P.R. crossing of Speedvale Avenue, City of Guelph, Ontario.

83701 May 6—Authorizing the C.N.R. to use the bridge at mileage 14·4 Hatherleigh Subdivision, Saskatchewan.

83702 May 6—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Myrtle, Manitoba.

83703 May 6—Authorizing the Alberta Department of Highways to construct its highway across the right-of-way of the Trans Mountain Oil Pipe Line Company in the SE quarter of section 7-53-1-W5M, Alberta.

83704 May 6—Authorizing the N.Y.C. Railroad Company to remove the station agent at St. Albert, Ontario.

83705 May 7—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 14 across the C.P.R. at mileage 0·67 Melford Subdivision, Saskatchewan.

83706 May 7—In the matter of the application of the Grand Trunk Pacific Railway Company for an order authorizing the construction of a spur along 121st Street in the City of Edmonton, Alberta.

83707 May 7—In the matter of the application of The Bonaventure and Gaspe Telephone Company Limited for adjustment of its rates for telephone service.

83708 May 7—Authorizing the C.N.R. to construct a siding across the township road, Township of Ops, County of Victoria, Ontario, to serve Bagshaw Lumber Limited.

83709 May 10—Authorizing the Quebec Central Railway Company to replace the existing span at Bridge 8·4 Chaudiere Subdivision, Quebec.

83710 May 10—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Kenaston, Saskatchewan.

83711 May 10—Authorizing the C.N.R. to remove the interlocker at Welland Canal Swing Bridge No. 8, at Thorold, Ontario.

83712 May 10—In the matter of the application of the C.P.R. for an order extending the time within which it was required by Order No. 82398, dated October 20, 1953, to construct a branch line of railway at mileage 172·92 Willingdon Subdivision, Alberta, etc.

83713 May 10—In the matter of the application of the C.N.R. for approval of plan showing the automatic protection as installed at the crossing of the railway and the Trans-Canada Highway, in the Province of British Columbia, mileage 1·66 Cowichan Subdivision.

83714 May 10—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Arcola Subdivision, Manitoba.

83715 May 10—Authorizing the C.N.R. to construct a car ferry slip in the harbour at Prince Rupert, British Columbia.

83716 May 10—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Broadview Subdivision, Saskatchewan.

83717 May 10—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 4, west of the station at Afton, Nova Scotia.

83718 May 11—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under sections 3 and 8.

83719 May 11—Authorizing the C.P.R. to extend the operating circuits and to remove one bell from the automatic protection installed at the crossing of Highway No. 17, west of Stinson, Ontario.

83720 May 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83721 May 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83722 May 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83723 May 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83724 May 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83725 May 11—Permitting the removal of slow order at C.P.R. crossing of Mercier Street, north of the station at St. Johns, Quebec.

83726 May 11—Approving proposed location of storage tank, etc., of the C.P.R. for the handling and storage of inflammable liquids near their tracks at Coquitlam, British Columbia.

83727 May 11—Approving proposed location of storage tank, etc., of the C.P.R. for the handling of inflammable liquids near their tracks at Kamloops, British Columbia.

83728 May 12—Permitting the removal of slow order at C.P.R. crossing east of the station at St. Martin Junction, Quebec.

83729 May 12—Authorizing the Grand Trunk Pacific Railway Company to construct a spur to serve Alberta Government Liquor Control Board across 16A Street, Calgary, Alberta.

83730 May 12—Authorizing the Grand Trunk Pacific Branch Lines Company, to construct a spur to serve Jefferies and Sons, Ltd., across a surveyed road in Calgary, Alberta.

83731 May 12—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Hague, Saskatchewan.

83732 May 12—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Cutknife Subdivision, Saskatchewan.

83733 May 12—Authorizing the C.P.R. to construct a private siding across Richard Avenue, Winnipeg, Manitoba.

83734 May 12—Approving proposed changes in the automatic protection at the C.P.R. crossing of Queen Street, Streetsville, Ontario.

83735 May 12—Requiring the C.N.R. to install protection at the crossing of Centre Street, Napanee, Ontario.

83736 May 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Whitemouth, Manitoba.

83737 May 12—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of extension to pipe lines and diesel locomotive fuelling points at Capreol, Ontaro.

83738 May 12—Approving proposed location of pipe lines and diesel locomotive fuelling points of the C.N.R. near their tracks at Hornepayne, Ont.

83739 May 12—Approving proposed location of pipe lines and unloading point of Imperial Oil Limited, near the C.N.R. tracks at Cannington, Ontario.

83740 May 13—In the matter of the application of the C.N.R. for an order rescinding order which restricted the speed of trains at the crossing of their railway and Degg Street, Chatham, Ontario.

83741 May 13—Approving the clearances at the loading platform of Lasby Sand and Gravel Company on the siding at Hagey, Ontario. (C.P.R.).

83742 May 13—In the matter of the application of the C.N.R. for approval of plan, showing an additional turnout to be installed within the circuits of the automatic protection at the crossing of Islington Avenue, Weston, Ontario.

83743 May 13—Authorizing the C.N.R. to construct Spur No. 2 across 6th Avenue East, Prince Albert, Saskatchewan.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

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Judgments, Orders, Regulations, and Rulings

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In the matter of the application of the Department of Highways of Ontario requesting the Board to amend its Order No. 57862, dated August 18, 1939, by directing the City of Kitchener, Ontario, to assume the portion of the cost of maintenance of the protective signals at the crossing of Doon Road and the Grand River Railway (C.P.R.) that was assessed the Applicant under the said Order:

File No. 35460·8

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

Appearances:

F. E. DENT for the Grand River Railway (Canadian Pacific Railway Company).
V. H. LONGSTAFFE for the Department of Highways of Ontario.
STANLEY SHUPE and J. A. HALLIWELL for the City of Kitchener.

JUDGMENT

CHASE, Commissioner:

By Order No. 57862 dated August 18, 1939, the cost of maintenance of bell and wigwag at the crossing of Doon Road and the Canadian Pacific Railway Company's electric line, the Grand River Railway, was ordered to be borne in equal amounts by the Department of Highways of Ontario, the railway company and the City of Kitchener. All three parties consented to that division of the cost prior to the making of the order. At that time the crossing was outside the limits of the City but recently the City extended its boundaries and took the crossing well within its limits. The Department therefore applied to the Board to have its share of maintenance costs transferred to the City. The

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City did not object to relieving the Department of the latter's share of such cost but submitted in correspondence that the cost should be shared equally by the City and the railway company. The company objected to being required to bear any part of the share formerly borne by the Department of Highways.

The matter was heard at Kitchener on April 12, 1954. The City again submitted that the cost should be shared equally by the railway company and the City. The company reiterated its submissions that the change in jurisdiction over the highway was not of its doing and that it did not obtain any benefit therefrom, and should not be required to bear any greater share of the cost of maintenance than it was ordered to bear by Order No. 57862.

Under the circumstances we are of the view that it would be proper to relieve the Department of Highways of the expense of maintenance of the protection but we see no reason why the share ordered by the Board to be borne by the railway company, which was with the consent of the City and the Department at the time the order was made, should be increased. The only change made since then was a change of highway jurisdiction from the Department to the City. That change does not, in our opinion, provide any cause for increasing the company's share. The result will be that the railway company will continue to bear one-third of the cost and the City of Kitchener will be required to bear the other two-thirds.

There have been previous cases where the Board has transferred a share of cost from one highway authority to another highway authority due to a change of jurisdiction over the highway. See, for example, *Department of Highways of Ontario* v. *City of Niagara Falls and Township of Stamford,* 52 C.R.T.C. 112, where the Board transferred a share of cost from the Department of Highways to the City of Niagara Falls and the Township of Stamford and left the railway's share unchanged.

An order will issue accordingly.

MAY 25, 1954.

H. B. CHASE,
Commissioner.

I concur:

JOHN D. KEARNEY.

I concur:

O. A. MATTHEWS.

ORDER No. 83798

TUESDAY, the 25th day of May, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

In the matter of the application of the Department of Highways of Ontario, requesting the Board to amend its Order No. 57862, dated August 18, 1939, by directing the City of Kitchener, Ontario, to assume the portion of the cost of maintenance of the protective signals at the crossing of Doon Road and the Grand River Railway (C.P.R.) that was assessed the Applicant under the said Order:

File No. 35460·8

Upon hearing the matter at Kitchener, Ontario, on April 12, 1954, in the presence of Counsel for the Canadian Pacific Railway Company and representatives of the Department of Highways of Ontario and the City of Kitchener—

It is ordered that Order No. 57862, dated August 18, 1939, be, and it is hereby, amended by deleting from paragraph numbered 5 thereof the words "and that the remainder of the said cost, as well as the cost of maintenance be borne in equal amounts by the Applicant, the Railway Company and the City of Kitchener" and substituting therefor the words "and that the remainder of the said cost, as well as the cost of maintenance from and after May 25, 1954, be borne one-third by the Railway Company and two-thirds by the City of Kitchener".

JOHN D. KEARNEY,
Chief Commissioner.

GENERAL ORDER No. 794

In the matter of rules covering the preparation of accounts to apply to joint projects undertaken under Order of the Board:

File No. 11026·74

THURSDAY, the 6th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the rules covering the preparation of accounts and rates of rental of railway-owned equipment to apply to joint projects undertaken under Order of the Board by railway companies within the legislative authority of the Dominion of Canada be, and they are hereby, approved and adopted, namely;

A joint project shall be considered to mean a project to the cost of which the railway and/or Board contributes.

The preparation of accounts shall be in general, as herein provided, or as may be determined from time to time by the Board.

Labour

(*a*) Labour Cost

Labour cost shall include a proportion of wages allowed on statutory holidays to employees entitled to such, and a proportion of wages allowed for vacation pay for all employees under the terms of wage agreements, and shall be calculated as follows:

i. To the wages of foremen entitled to wages for statutory holidays shall be added one per cent.

ii. To the wages of employees entitled to three weeks vacation with pay shall be added six per cent.

iii. To the wages of all other employees entitled to vacation with pay shall be added four per cent.

(*b*) Surcharges

To all items of labour cost there shall be added surcharges to cover the following:

	Transportation Accounts	*Construction and Maintenance Accounts*
Supervision and Accounting	5%	—
Supervision, Accounting and use of tools	—	10%
Pensions	5%	5%
Workmen's Compensation	2%	2%
Unemployment Insurance	1%	1%

The surcharges covering supervision, accounting and use of small tools, are in lieu of the cost of all salary and expense of any general or supervising officer, or other person regularly employed, having supervision over any railway operation or maintenance, including all overhead office expense, cost of draughting-room, accessories, etc., all stenographic or clerical forces employed in head, divisional, or district offices, handling matters pertaining to the work, all charges for minor equipment and small tools.

(*c*) Special Engineering Services

A direct charge shall be allowed for engineering services when it is necessary for their employment continuously and exclusively on the particular work, plus the surcharges herein provided under "construction and maintenance."

Under this item it will be proper to charge the wages of office engineers and draughtsmen assigned to the work in the preparation of plans after the issue of the Board's Order, plus the surcharges herein provided under "construction and maintenance." "Assigned" means continuous service for one day, or more, solely in connection with the particular project, but does not permit accumulation of short intermittent periods to equal one day.

Workmen's Compensation

No award in payment of compensation claims for injury or death will be allowed.

Transportation of Men

No transportation charges for railway labour or employees will be allowed, except extraordinary transportation, which may be considered by the Board in each special case.

Material

To the invoice price (including foreign freight, customs duty, sales tax and exchange), of all items of materials and supplies used, add 15 per cent to cover supervision, store expense, inspection, accounting, handling and transportation over the billing carrier's line to point of use. When material is hauled over billing carrier's line in excess of 250 miles, a further allowance of 10 mills per net ton mile for such excess mileage shall be included, in addition to the 15 per cent allowance. Proper credit shall be allowed for salvage materials, less 15 per cent to cover expense of supervision, inspection, store expense, accounting, handling and transportation.

Contract Work

To the contract price of work done by an outside contractor there may be added a premium to cover supervision, accounting and inspection of 3 per cent on amounts up to $50,000.00; of 2 per cent on the excess of $50,000.00 up to $100,000.00; and of 1 per cent on the excess over $100,000.00.

Land Purchases and Damages

To the purchase price of land and property damages, registration fees, special taxes, fees paid into court, and commissions paid for purchase settlement, there may be added a premium to cover supervision, accounting, etc., of 3 per cent, on amounts up to $50,000.00; of 2 per cent on the excess of $50,000.00 up to $100,000.00; and of 1 per cent on the excess over $100,000.00.

Rental of Railway-Owned Equipment

Rental of railway-owned equipment, when used in joint project work, shall be in accordance with Schedule "A", Circular No. 109 of the Railway Association of Canada. No percentage allowance shall be added to equipment rental.

Schedule "A", indicating description of equipment and rates per day, is attached hereto. The rates in the foregoing Schedule are for each 24-hour period, including Sundays and holidays or fraction thereof, and do not include wages and expenses of employees in charge of equipment, supplies, fuel, or cost of transporting equipment, which shall be charged in addition to rental.

Work Train

Flat rate, including rental of one locomotive (all sizes and types), caboose, all repairs, fuel and supplies, engine and train or switch crew wages and supplies, all engine-house expense—$18.50 per hour, or fraction thereof—(for additional equipment rental, see Schedule attached), with the addition of a work train service trackage charge of $1.50 per train mile; minimum trackage charge—$10.00.

Transportation of Equipment

Charges at the following rates for transportation of cars, cars loaded with roadway machines, and for other miscellaneous equipment, shall be made from home station or previous job to point of use, also for return movement, if moved to home station or point to be stored. (If moved to another job, no charge shall be made for return movement):

In Revenue Trains

(*a*) Cars and work equipment loaded on cars—6¢ per unit per mile.
Minimum—$6.00 per unit.

(*b*) Other work equipment transported on own wheels—10¢ per unit per mile.
Minimum—$10.00 per unit.

In Work Trains—Work train rate as provided.

And it is further ordered that General Orders Nos. 754 and 787 be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner,

SCHEDULE "A"

Item	*Description*	*Rates per day Schedule "A"*
	Motive Power	
1	Yard (Steam) per 1000 lbs. Tractive Effort	$ 1.44
2	Yard (Diesel) per 100 Horse Power available for traction purposes only	6.37
3	Train (Steam) per 1000 lbs. Tractive Effort	1.87
	Revenue Equipment	
6	Freight Cars	Per diem rate
7	Refrigerator Cars—All Steel	7.00
8	—Steel Centre Sills, SUF also SF	4.00
9	Caboose	2.00
	Work Equipment (Mounted on MCB trucks or floating)	
15	Cars—Air Dump—30 cubic yards and over	5.50
16	" —Air Dump—29 cubic yards and under	5.00
17	" —Boarding or Kitchen, converted passenger	4.00
18	" —Bunk, Kitchen, Dining, Rail, Ice, Tool, Cabin Idler, Cinder, etc., converted freight	2.50
19	" —Dynamometer	90.00
20	" —Generator—10 car capacity	12.00
21	" —Rule Instruction	9.00
22	" —Water Transport, including converted tender	3.50
	Cranes and Pile Drivers	
23	Crane—Steam—250 tons	110.00
24	200 tons	60.00
25	100—199 tons	35.00
26	Crane—Steam— 30— 99 tons	23.00
27	10— 29 tons	16.00
28	under 10 tons (include rail loader)	8.00
29	Diesel—10-29 tons	70.00
30	under 10 tons	20.00

Item	Description	Rates per day Schedule "A"
31	Crane Pile Driver—Steam	$ 26.00
32	Pile Driver—Steam—self-propelled	45.00
33	non self-propelled	17.00
34	floating	4.00
35	Fire Fighting Tank	9.00
36	Flanger (and scraper)	7.50
37	Lidgerwood—Rapid Unloader	13.00
38	Ballast Plow, extra	3.00
39	Snow Loader—Barber-Greene	100.00
40	Snow Melter—Barber-Greene or Bros.	70.00
41	Snow Plow—Rotary	90.00
42	Snow Plow—with wings and drop points	19.00
43	others	6.50
	Spreaders with attachments	
44	Steel or SUF	15.00
45	Ditch Line Contour, extra	4.00
46	Wood (include Ballast Trimmer)	6.00
	Steam Shovels (include Steam Ditchers)	
47	3 cubic yards and over	40.00
48	Under 3 cubic yards	22.00
	Miscellaneous Equipment	
60	Auto Trucks—over 2½ tons	11.00
61	" over 1-2½ tons	7.00
62	" 1 ton or less	5.00
63	Car Loader 'Clark'	4.50
64	Crane—self-propelled truck or tractor—5 tons or less	8.00
65	Tructractor—gas or battery driven	4.00
	Roadway Machines	
75	Small Roadway Machines (See note on Page 2)	2.00
76	Small Roadway Machines, Other (See note on Page 2)	1.00
	Air Equipment—for attachments see items 75, 76 and 80	
77	Compressor—diesel operated—315 cubic feet	25.00
78	gas operated—160-200 cubic feet	8.50
79	gas operated—less than 160 cubic feet	6.00
80	Cement gun attachment	4.00
	Ballasting Equipment	
81	Ballaster—Gas or air-operated—complete with tie-tamping bars	24.00
82	Ballast Discer—gas operated	4.50
83	Ballast Scarifier—gas operated	45.00
84	Jack—Power Track—gas operated	3.50
85	Tie Tamper—4 Tool Hi Speed complete	4.50
	Combination Crane, Shovel and Dragline—Crawler Mounted—Diesel Operated:	
	Dipper and Shovel / *Clam and Dragline Buckets*	
86	Over 1¼ cu. yd.—2 cu. yd. / Over 1 cu. yd.—1¾ cu. yd.	60.00
87	Over ¾ cu. yd.—1¼ cu. yd. / Over ½ cu. yd.—1 cu. yd.	45.00
88	¾ cubic yard or less / ½ cubic yard or less	40.00
89	Concrete Mixers—Gas operated—over ¼ cubic yard	6.00
90	—Gas operated—¼ cubic yard or less	2.50

Item	Description	Rates per day Schedule "A"
	Cranes and Hoists (Power Driven)	
91	Burro	$ 35.00
92	Tractor—gas driven—12 tons	13.00
93	Gas driven—Telescopic swing boom—19/31 ft. radius	15.00
94	Koehring cruiser 36" magnet capacity 15,000 lbs. 12' radius	20.00
95	Gas driven—5,000 lbs. with magnet	11.00
96	Gas driven—3,000-5,000 lbs.	7.50
97	Others, including hand operated	3.50
98	Generator, Portable Electric	3.00
99	Post Hole Digger—Diesel	17.00
100	Pumps—gas or steam driven (exclude portable)	6.00
101	Rail End Hardening Unit	4.00
	Rail Laying Equipment:	
102	Power Wrench—gas operated	4.50
103	Rail Layer, Power—gas operated	8.00
104	Spike Driver or Puller—gas operated	4.50
105	Tie adzer	4.00
106	Road Roller—gas operated—3-4 tons	7.50
107	Snow Blower—Hydraulic Wings and Railroad Wheels—Gas driven—Mounted on Auto Trucks	60.00
108	Snow Loader and Blower—Gas driven	21.00
	Tractor, Caterpillar—With Bulldozer:	
109	Belt Horsepower—50 to 84	15.00
110	Belt Horsepower—less than 50	11.00
111	Scraper attachment—10 cubic yards	6.00
112	Weed Burner—Old Style	4.00
113	Weed Mower—Gas operated	5.50
114	Welder—Single Arc—Gas operated	7.00
115	Welder—Single Arc—Gas operated with Grinder Car Unit	9.00

NOTES

Small Roadway Machines

Grinder, Rail
Paint Sprayer
Pavement Breaker
Paving Compactor
Rail Layer, Hand

Small Roadway Machines, Other

Air Equipment Attachments:
- Concrete Vibrator
- Drill or Reamer
- Grinder and Surfacer
- Rivet or Chipping Hammer
- Rock Drill
- Sand Blast
- Saw, Chain Link
- Tie Tamper, Unit

Other Machines:
- Bonder, Rail
- Car, Track Motor
- Car, Trailer Dump
- Jack, Geared
- Pump, Portable
- Rail Slotter
- Saw, Power Rail
- Skilsaw, Electric
- Tie Tamper, Gas
- Floor Sander

Abbreviations used: SF—Steel Frame. SUF—Steel Underframe.

GENERAL ORDER No. 795

In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service including Specifications for Shipping Containers:

File No. 1717B

THURSDAY, the 6th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commisisoner.*

Upon the recommendation of the Director of Operation of the Board—

It is ordered that the said Regulations be, and they are hereby, amended by cancelling sections 1 to 13 of specification 41 appearing on page 23 of Supplement No. 2 to the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service including Specifications for Shipping Containers, issued February 1, 1954, and substituting the following:

SPECIFICATION 41

INSIDE CONTAINERS

Non-refillable seamless or welded or brazed steel cylinders.

1. Compliance. (a) Required in all details.

2. Type, size, and service pressure. (a) Type and size. Must be seamless, welded, or brazed (brazing material must have a melting point of not less than 1000°F.). The maximum water capacity of cylinders in this class shall not exceed 1·44 pounds or 40 cubic inches. Longitudinal seams are prohibited, except that containers constructed from longitudinally welded steel tubing are authorized provided that certification is made by the tubing manufacturer that the tubing has been pressure tested to a fiber stress of 24,000 pounds per square inch as calculated by the formula:

$$P = \frac{24000(D^2 - d^2)}{1 \cdot 3D^2 + 0 \cdot 4d^2}$$

where

P is the pressure required for pressure testing of tubing by the tubing manufacturer.

(b) Service pressure. Service pressure must be 240 pounds per square inch

3. Inspection by whom and where. By competent and independent Inspector approved by the Board of Transport Commisisoners for Canada and the Bureau of Explosives; for cylinders not made in the Dominion of Canada, the United Kingdom, or the United States of America, the chemical analyses and tests as specified, to be made within the limits of the Dominion of Canada.

Inspectors of the manufacturer are authorized only on approval of the Board.

4. Duties of inspector. (a) Inspect all material and reject any not complying with requirements.

(b) Verify compliance with the requirements of paragraph 5 of this specification by submitting copy of certified chemical analysis obtained from the steel manufacturer for each heat of steel (ladle analysis acceptable); or, if such evidence is lacking, then a sample from each coil or sheet must be analyzed and results submitted.

(c) Verify compliance of cylinders with all requirements including markings; inspect inside before closing in both ends; verify heat treatment as proper; select samples for all tests and for check chemical analyses; witness all tests; verify threads by gauge; report volumetric capacity (see report form) and minimum thickness of wall noted.

(d) Render complete report (paragraph 19) to purchaser cylinder maker, the Bureau of Explosives and the Board of Transport Commissioners for Canada.

5. Steel. (a) Open-hearth or electric steel of uniform quality. Content per cent for the following not over: Carbon 0·150; phosphorus, 0·045; sulphur 0·055.

6. Identification of material. (a) Required; any suitable method.

7. Defects. (a) Material with seams, cracks, laminations, or other injurious defects, not authorized.

8. Manufacture. (a) By proper appliances and methods; dirt and scale to be removed as necessary to afford proper inspection; no defect acceptable that is likely to weaken the finished cylinder appreciably; reasonably smooth and uniform surface finish required. Seams must be as follows:

(1) Circumferential seams. Except as provided in subparagraph (2) of this paragraph by welding or by brazing. Heads attached by brazing must have a driving fit with the shell, unless the shell is crimped, swedged, or curled over the skirt or flange of the head, and be thoroughly brazed until complete penetration by the brazing material of the brazed joint is secured. Depth of brazing from end of shell must be at least four times the thickness of shell metal.

(2) A container of two hemispherical heads, each having an integral tangential cylindrical skirt portion assembled so that the two cylindrical skirt portions telescope one within the other is authorized but must meet the following additional requirements for the skirt portions; one be a driving fit within the other; they be of equal length and telescoped for their full length; the length of the overlap be not less than 8 nor more than 10 times the thickness of the thinner of the two skirts; the overlapping joint be brazed (not welded) so as to get complete penetration for the full length of the joint.

9. Wall thickness. (a) The wall stress at 720 pounds per square inch shall not exceed 24,000 pounds per square inch, except that for longitudinally welded steel tubing the stress shall not exceed 20,400 pounds per square inch. The minimum wall for any cylinder shall be 0·032 inch. For the container authorized in paragraph 8(a)(2) the wall thickness of the cylinder shall be taken as the sum of the thickness of the two skirts (without allowance for the brazing material between).

(b) Calculation must be made by the formula:

$$S = \frac{720(1 \cdot 3D^2 + 0 \cdot 4d^2)}{D^2 - d^2}$$

where

S=wall stress in pounds per square inch;
D=outside diameter in inches;
d=inside diameter in inches.

(c) Calculation for thickness of hemispherical heads of containers authorized in paragraph 8(a)(2) must be made by the formula:

$$S=\frac{720D}{4tC}$$

where

t=thickness in inches;

C=0·85 (design factor)

S and D have same significance as in paragraph (b) of this section. The minimum thickness of the head or skirt shall be 0·032 inch. The thickness of the skirt shall be not less than the thickness of the head.

10. Heat treatment. (a) Body and heads must be uniformly and properly heat treated prior to tests.

11. Openings in cylinders. (a) Each opening in cylinder, except those for safety devices, must be provided with a fitting, boss, or pad, securely attached to cylinder by brazing or by welding or by threads. If threads are used, they must comply with the following:

(1) Threads must be clean cut, even, without checks, and tapped to gauge.

(2) Taper threads to be of length not less than as specified for American Standard taper pipe threads.

(3) Straight threads, having at least 4 engaged threads to, have tight fit and calculated shear strength at least 10 times the test pressure of the cylinder; gaskets required, adequate to prevent leakage.

(b) Closure of fitting, boss or pad, must be adequate to prevent leakage.

12. Safety devices. (a) Devices must be as required by the Board of Transport Commissioners regulations that apply. (See sec. 73·34(f) and 73·301(i).

13. Pressure tests. (a) Each cylinder produced shall be tested at an internal pressure[1] of at least 240 pounds per square inch and not exceeding 720 pounds per square inch, held for at least 30 seconds, and shall show no leak or other defect when inspected by suitable means.

(b) Or, each completed container filled for shipment must be heated until content reaches a minimum temperature of 130°F.; without evidence of leakage, distortion or other defect.

(c) One out of each 3,000 cylinders or less successively produced per day shall be hydrostatically tested to destruction and must not burst below 1,440 pounds per square inch. Each such 3,000 cylinders or less successively produced per day shall constitute a lot and if the test cylinder shall fail, then the entire lot must be rejected. All cylinders constituting a lot shall be of identical size, design, construction, heat treatment, finish and quality.

14. Flattening test. (a) Between knife edges, wedge shaped 60° angle, rounded to $\frac{1}{2}$ inch radius; test 1 cylinder taken at random out of each lot of 3,000 or less successively produced per day, after pressure test. This flattening test is required and the test cylinder shall not have cracked when the outer surfaces of the walls are apart not more than a distance of 6 times the thickness of such walls.

15. Rejected cylinders. (a) Reheat treatment authorized for lots failing to meet the requirements of sec. 14; such lots of cylinders after this treatment must pass all prescribed tests.

[1]Warning—Where air or gas pressure is used for testing, means designed to protect personnel is recommended.

16. Repair of brazed and welded seams. (a) Only repair of brazed seams by brazing and welded seams by welding is authorized, provided such cylinders are retested and pass the tests prescribed in sec. 13(a).

17. Marking. (a) Marking on each cylinder by embossing plainly and permanently on valve end of cylinder before heat-treatment, the marks BTC-41 and registered symbol of manufacturer.

(1) Other marks as prescribed in subparagraph (2) of this paragraph must be shown on a permanently attached name plate or by printing or decalcomania, provided that such markings are water-proofed and adherent and not easily impaired when subject to water immersion and weathering under service conditions, or are coated over with a water-insoluble transparent lacquer; except that cylinders having brazed lapped circumferential seam may, after having been tested in accordance with secs. 13 and 14 of this specification, have marks permanently stamped into metal of this seam, provided that such marks do not exceed 0·015″ in depth.

(2) Inspector's official mark; lot number; date of test (such as 5-50 for May 1950); the words "Illegal to refill and transport".

18. Size of embossed marks. (a) At least $\frac{1}{4}$ inch high.

19. Inspector's reports. (a) Required to be clear, legible and in following form:

(Place)
(Date)

Steel Gas Cylinders

Manufactured for.....Company
Location at.....
Manufactured by.....Company
Location at.....
Consigned to.....Company
Location at.....
Quantity
Size.....inches outside diameter by.....inches long

Identification marks embossed on cylinders are:

Specification BTC-41.
Identifying symbols (registered).....

Other marks on cylinder are:

Inspector's official mark.....
Lot number.....
Test date.....
Illegal to refill and transport.....
These cylinders were made by process of.....
.....
.....
.....

The steel used was identified by heat or analysis numbers as shown on the "Record of Chemical Analysis of Steel for Cylinders" attached hereto.

The steel used was verified as to chemical analysis and record thereof is attached hereto.

All material was inspected and each cylinder was inspected both before and after closing; all accepted material and cylinders were found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the cylinder. The processes of manufacture and heat treatment were supervised and found to be efficient and satisfactory.

A test cylinder of each lot was measured and had a minimum wall thickness and volumetric capacity as shown in table below:

Date of test	Lot No.	Number in lot	Minimum wall thickness (inches)	Volumetric capacity (cubic inches or pounds of water)
.....				
.....				
.....				
.....				

Such threads as were inspected and found to be clean cut, of proper length, and correct as to gauge.

One finished cylinder out of each lot was taken at random and burst by interior hydrostatic pressure with the following results:

Date of test	Lot No.	Presure at which cylinder ruptured (pounds per square inch)
.....		
.....		
.....		
.....		

Each and every cylinder was subjected to an interior pressure of 240 pounds per square inch or was heated until contents reached a minimum temperature of 130°F. and showed no leak or other defect.

Hydrostatic tests, pressure tests, flattening tests, and other tests, as prescribed in Specification No. BTC-41 were made in the presence of the inspector and all material and cylinders were found to be in compliance with the requirements of that specification.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the requirements of Board of Transport Commissioners for Canada Specification No. 41 except as follows:

Exceptions
.....
.....

(Signed)
Inspector.

Record of Chemical Analysis of Steel for Cylinders

Size inches outside diameter by inches long
Made by Company
For Company

Lot No.	Number in lot	Heat No.	Check analysis No.	Chemical analysis		
				C	P	S
.....						
.....						
.....						
.....						

The analyses were made by

(Signed)
Inspector.

HUGH WARDROPE,
Assistant Chief Commissioner,

ORDER No. 83814

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 59:

File No. 40994·48

THURSDAY, the 27th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 59 on file with the Board under file No. 40994·48, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as April 21, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83834

In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 27 to Agreed Charge Tariff C.T.C. (AC) No. 11:

File No. 40994·3

FRIDAY, the 28th day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 27 to Agreed Charge Tariff C.T.C. (AC) No. 11 on file with the Board under file No. 40994·3, be, and it is hereby, approved; and that the date as from which the said Supplement No. 27 shall be deemed to have become operative is hereby fixed as April 26, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83840

In the matter of the application of the British Yukon Navigation Company Limited, hereinafter called the "Applicant Company", for a licence under section 10 of the Transport Act:

File No. 42076·42

MONDAY, the 31st day of May, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 293 be issued to the Applicant Company licensing for the period of one year commencing January 8, 1954, the following ships to transport passengers and/or goods by water between all ports and places accessible by navigation to the ships listed in the said application in respect of the Yukon River and its tributary waters within the Yukon territory:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Tutshi	138695	1041
Klondike	156744	1363

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83896

In the matter of the application of Fort William rates as maxima in respect of mileage rates on grain and grain products within Western Canada, as prescribed by General Order No. 125, dated May 30, 1914:

Files Nos. 46921
18755

FRIDAY, the 4th day of June, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon consideration of the Judgments herein dated October 24, 1952, and October 19, 1953—

And upon hearing the representations of Canadian National Railways, Canadian Pacific Railway Company, Purity Flour Mills Limited, Robin Hood Flour Mills Limited, Ogilvie Flour Mills Company Limited, Quaker Oats Company of Canada, Limited and Maple Leaf Milling Company Limited and considering the submissions filed—
It is ordered

1. That General Order No. 125, dated May 30, 1914, be, and it is hereby rescinded, effective on July 1, 1954, insofar as it ordered that the terms of Part XX of the Judgment dated April 6, 1914, namely, that all local mileage rates on grain and grain products within Western Canada "should in the future be subject to the Fort William rates as maxima to or from any intermediate point on the direct line of transit to and from Fort William" be complied with and become effective.

2. That any tariff schedule filed with the Board pursuant to this Order shall not be made effective on less than thirty days' statutory notice.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83744 May 13—Authorizing the C.N.R. to use the subway at Bedford, Nova Scotia.

83745 May 13—Authorizing the C.P.R. to close the crossing of the road allowance between Lot 30, Township of Exford in Lot 14, Concession 7, Township of South Gower, County of Grenville, Ontario.

83746 May 14—Authorizing the C.P.R. to construct a private siding across lane in Manchester Industrial Area, Calgary, Alberta, to serve Sturdie Propane Limited.

83747 May 14—In the matter of application of the Ontario Department of Highways for an Order authorizing the C.N.R. to construct a diversion of their Newmarket Subdivision in Ontario to permit abandonment of Orillia Street crossing, Township of North Orillia, County of Simcoe, Ontario.

83748 May 14—Authorizing the C.N.R. to operate under the overhead bridge at Murray Street, Town of Bathurst, New Brunswick.

83749 May 14—In the matter of application of Trans-Canada Pipe Lines Limited and Western Pipe Lines for an Order granting leave to construct a pipe line for the transportation of gas from a point on Alberta-Saskatchewan border, east of the Town of Princess, Alberta, to certain points in Saskatchewan, Manitoba, Ontario and Quebec.

83750 May 14—Authorizing the C.N.R. to discontinue the agency at Saunders, Alberta.

83751 May 14—In the matter of application of the C.P.R. for exemption from maintaining cattle guards at certain highway crossings on its Wilkie Subdivision, Saskatchewan.

83752 May 14—Authorizing the C.P.R. to make changes in the operating circuits of the signal protection at the crossing of Regent Street, Sudbury, Ontario.

83753 May 17—In the matter of application of Yellowknife Transportation Company for a licence under Section 10 of the Transport Act.

83754 May 17—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Commissioners for the Telephone System of the Municipality of the Township of Dawn.

83755 May 17—In the matter of application of the Grand Trunk Railway Company of Canada for approval of plan showing automatic protection for gauntlet track at Port Robinson, Ontario.

83756 May 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telephone Notre Dame.

83757 May 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Arpin.

83758 May 17—In the matter of application of the City of London, Ontario, for approval of By-law P.W.-18-93 prohibiting the sounding of engine whistles.

83759 May 17—Approving under the Maritime Freight Rates Act certain tolls published in Tariff C.T.C. No. E. 5181 filed by the C.P.R. under Section 8.

83760 May 17—Authorizing the C.P.R. and C.N.R. to operate their trains through the interlocking at the crossing of the railway of the C.P.R. at mileage 34·1, Goderich Subdivision and the C.N.R. at Marden, Ontario.

83761 May 18—Relieving the C.N.R. from erecting fencing between certain mileages on their Carlton Subdivision, Saskatchewan.

83762 May 18—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Tisdale, Saskatchewan.

83763 May 18—Authorizing the C.P.R. to construct a private siding across lane in Manchester Industrial Area, Calgary, Alberta, to serve the United Farmers Co-operative.

83764 May 19—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

83765 May 19—Approving proposed location of storage tanks, etc., of Canadian Oil Companies Limited near C.N.R. tracks at Atikokan, Ontario.

83766 May 19—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at New Mills, New Brunswick.

83767 May 19—Relieving the C.N.R. from maintaining right-of-way fencing between certain mileages on their Aberdeen Subdivision, Saskatchewan.

83768 May 19—Authorizing the C.P.R. to replace the existing timber trestle by a culvert at mileage 0·6, Colony Subdivision, Saskatchewan.

83769 May 19—Approving clearances at the C.N.R. siding serving A. S. Nicholson and Son Limited at Burlington, Ontario.

83770 May 19—In the matter of approval of plan submitted to the C.P.R. by the British American Oil Company Limited showing the proposed location of cracking furnace and separator at Moose Jaw, Sask.

83771 May 19—Approving proposed location of storage tanks, etc., of the Georgian Bay Propane Company near the C.N.R. tracks at Parry Sound, Ontario.

83772 May 19—Requiring the C.N.R. to install protection at the crossing of Highway No. 26, west of the station at St. Jean Port Joli, P.Q.

83773 May 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Dalhousie, New Brunswick.

83774 May 19—In the matter of application of the Metcalfe Foods Limited, Dominion Dairies Limited, Cruickshank-Guild Limited and Graham Food Products Limited for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62.

83775 May 19—In the matter of application of the Bonaventure and Gaspe Telephone Company Limited for approval of revised Tariff C.T.C. No. 41 to become effective June 1, 1954.

83776 May 19—Permitting the removal of slow order at C.N.R. crossing west of the City of Welland, Ontario.

83777 May 19—Authorizing the C.N.R. to construct a rockshed at mileage 109·3, Ashcroft Subdivision, British Columbia.

83778 May 19—In the matter of application of Canadian Freight Association for approval of Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 45.

83779 May 19—Permitting the removal of slow order at C.P.R. crossing of Lawrence Avenue, Weston, Ontario.

83780 May 19—Authorizing the Interprovincial Pipe Line Company to construct a second pipe line across Battle River in the N.E. $\frac{1}{4}$ of Section 25, Township 42, Range 10, W4M, Alberta.

83781 May 20—Authorizing the Algoma Central and Hudson Bay Railway Company to construct a steel bridge to replace the existing timber trestle over the Agawa River, District of Algoma, Ontario.

83782 May 20—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the Canadian Freight Association under Sections 3 and 8.

83783 May 20—Authorizing the Algoma Central and Hudson Bay Railway Company to construct a steel bridge to replace the existing timber trestle over the Agawa River, District of Algoma, Ontario.

83784 May 20—Approving Supplement No. 1 to Service Station Contract between the Bell Telephone Company of Canada and the South McNaughton Telephone Company Limited.

83785 May 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near tracks of the Northern Alberta Railways Company at Westlock, Alberta.

83786 May 20—Relieving the C.N.R. from erecting fencing between certain mileages on their Duck Lake Subdivision, Saskatchewan.

83787 May 20—Restricting the speed of C.N.R. trains at the crossing of Main Street, Stayner, Ontario.

83788 May 20—In the matter of application of the New York Central Railroad Company for approval of less than standard clearances resulting from the new extension to the service station of Nionta Oil Limited at Fort Erie, Ontario.

83789 May 21—Approving proposed location of storage tanks, etc., of Messrs. Christie Brown and Company Limited near C.P.R. tracks at Winnipeg, Manitoba.

83790 May 21—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

83791 May 21—In the matter of the application of the Canadian Government Specification Board for the shipment of samples of flammable liquids by rail express, by or consigned to members of the Canadian Co-operative Gasoline Exchange.

83792 May 21—In the matter of application of the Department of Mines and Technical Surveys for the shipment of samples of flammable liquids by rail express.

83793 May 21—In the matter of application of the Department of National Defence for the shipment of samples of flammable liquids by rail express.

83794 May 21—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Brooksby Subdivision, Saskatchewan.

83795 May 21—Relieving the C.N.R. from maintaining right-of-way fencing between certain mileages on their Athabasca Subdivision, Alberta.

83796 May 21—In the matter of accident on February 1, 1954, at the crossing of the C.N.R. and Town Line Road, Pembroke Jct., Ontario.

83797 May 21—Approving proposed location of storage tanks, etc., of Messrs. Bowman & Carson near tracks of N.Y.C. Railroad Company at Leamington, Ontario.

83798 May 25—In the matter of application of the Ontario Department of Highways requesting the Board to amend its Order No. 57862, dated August 18, 1939, by directing the City of Kitchener, Ontario, to assume the portion of the cost of maintenance of the protective signals at the crossing of Doon Road and the Grand River Railway that was assessed the Applicant under the said order.

83799 May 25—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Lyleton Subdivision, Manitoba.

83800 May 25—Authorizing the British Columbia Department of Public Works to construct a highway bridge over the C.P.R. tracks at mileage 29·64 Mountain Subdivision, British Columbia.

83801 May 25—Permitting the removal of slow order at C.N.R. crossing known as Gasper's crossing, mileage 1·60 Hopewell Subdivision, Nova Scotia.

83802 May 25—Authorizing the C.P.R. to install automatic block signals between Medonte and MacTier, Ontario.

83803 May 25—Authorizing the Rural Municipality of Ferrell No. 101, Saskatchewan, to construct a road diversion connecting east and west road allowance between the north and south road allowance on the north side of the C.N.R.

83804 May 25—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Clavet, Saskatchewan.

83805 May 25—Authorizing the C.P.R. to operate the culvert at mileage 79·17, Lachute Subdivision, P.Q.

83806 May 25—Authorizing the City of Quebec to widen Dorchester Street where it crosses the right-of-way of the C.P.R. as shown on plan on file with the Board.

83807 May 25—In the matter of application of C.P.R. for an order authorizing reconstruction of its bridge over Oxford Street, London, Ontario.

83808 May 25—Approving proposed location of storage tanks, etc., of Superior Propane Limited near C.N.R. tracks at Simcoe, Ontario.

83809 May 25—In the matter of application of the Town of LeMoyne, P.Q., for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and Cote Noire Road.

83810 May 26—Authorizing the Public Utilities Commission, Midland, Ontario, to construct a transmission line in the Town of Midland, Ontario.

83811 May 26—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under Section 8.

83812 May 26—Authorizing the C.P.R. to replace the existing timber trestle at mileage 21·0 Fife Lake Subdivision, Saskatchewan, with a metal pipe and fill.

83813 May 26—Requiring the Great Northern Railway Company to install certain protection at the crossing of its railway and Rupert Street, Vancouver, British Columbia.

83814 May 27—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 59.

83815 May 27—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

83816 May 27—Relieving the C.P.R. from erecting cattle guards at the highway crossing at mileage 119·50 on its Thessalon Subdivision, Ontario.

83817 May 27—Authorizing the C.N.R. to install an electric switch lock at the diamond crossing of the Montreal Tramways Company and Jenkins Valve Company near mileage 6·04 Cornwall Subdivision, Ontario.

83818 May 27—In the matter of the application of the City of Galt, Ontario, for an order amending Order No. 55403, dated January 3, 1938, which approved the installation of automatic protection at the crossing of the C.N.R. and the Grand River Railway on Highway No. 24 in Lot 11, Con. 12, Township of Dumfries North.

83819 May 27—Approving under the Maritime Freight Rates Act tolls published on certain revised pages of tariff filed by the Canada and Gulf Terminal Railway Company under section 8.

83820 May 27—Authorizing the C.N.R. to use and operate the bridge over Burnt River, Ontario, at mileage 21·9 Haliburton Subdivision.

83821 May 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Hardisty, Alberta.

83822 May 27—Authorizing the C.N.R. to operate the bridge over the Conestoga River, Ontario, at mileage 61·2 Fergus Subdivision.

83823 May 27—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Shogomoc Subdivision, New Brunswick.

83824 May 27—Relieving the C.P.R. from erecting right-of-way fencing on both sides of its railway between mileage 76·0 and mileage 77·8 of its Minto Subdivision, New Brunswick.

83825 May 27—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Edmundston Subdivision, New Brunswick.

83826 May 27—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its St. Stephen Subdivision, New Brunswick.

83827 May 27—Authorizing the C.P.R. to operate under the overhead bridge at mileage 112·82 North Bay Subdivision, Ontario.

83828 May 27—Authorizing the C.N.R. to remove the caretaker at Fossmill, Ontario.

83829 May 28—Approving operation of C.P.R. trains over the private siding at Haney, British Columbia.

83830 May 28—In the matter of the application of the Cayuga Steamship Company Limited, for a licence under section 10 of the Transport Act.

83831 May 28—Approving under the Maritime Freight Rates Act tolls published in certain revised pages in tariff filed by the C.P.R. under section 8.

83832 May 28—Authorizing the C.N.R. to operate the bridge over the Madawaska River, mileage 78·6 Temiscouata Subdivision, New Brunswick.

83833 May 28—Relieving the C.N.R. from erecting right-of-way fencing between mileages 34·9 to 35·1 on their Chelan Subdivision (South Side), Saskatchewan.

83834 May 28—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 27 to Agreed Charge Tariff C.T.C. (AC) No. 11.

83835 May 28—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Cudworth Subdivision, Saskatchewan.

83836 May 28—Authorizing the C.N.R. to operate the bridge at mileage 10·7 Tete Jaune Subdivision, British Columbia.

83837 May 28—Permitting the removal of slow order at C.P.R. crossing west of the station at Irvine, Alberta.

83838 May 28—Permitting the removal of slow order at C.P.R. crossing of Highway No. 7 (Rosser Road), in the Village of Brooklands, Manitoba.

83839 May 28—In the matter of the application of the C.N.R. for approval of revised plan showing the automatic protection as installed at the crossing of their railway and the railway of the C.P.R. and Morris Street, Gladstone, Manitoba.

83840 May 31—In the matter of the application of the British Yukon Navigation Company Limited, for a licence under section 10 of the Transport Act.

83841 May 31—Authorizing the C.N.R. to construct a siding across King Street in the City of London, Ontario, to serve the new plant of Kellogg-Pillsbury of Canada Limited.

83842 May 31—Authorizing the C.N.R. to construct a siding across Queenston Street under the Queenston Street overhead bridge in the City of St. Catharines, Ontario.

83843 May 31—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Dunnville Consolidated Telephone Company Limited.

83844 May 31—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Dysart.

83845 June 1—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de St. Ephrem de Bagot.

83846 June 1—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Kingsport Station, Nova Scotia.

83847 June 1—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Beatty Telephone System.

83848 June 1—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The People's Telephone Company of Forest Limited.

83849 June 1—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Alnwick Rural Telephone Company Limited.

83850 June 1—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Haldimand Rural Telephone Company Limited.

83851 June 1—Authorizing the C.N.R. to construct their new main line track across Modeland Road between Lots 15 and 16, Concession 4, Township of Sarnia, Province of Ontario.

83852 June 1—Authorizing the C.P.R. to construct a private siding along Roy Street and across Cabana Street, Sherbrooke, P.Q.

83853 June 1—In the matter of approval of plan submitted to the Quebec Central Railway Company by Champlain Oil Products Limited, showing the proposed location of pipe lines, etc., at Thetford Mines, P.Q.

83854 June 1—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Alix, Alberta.

83855 June 1—Approving proposed location of additional pipe lines of Shell Oil Company of Canada Limited near C.P.R. tracks at Victoria, B.C.

83856 June 1—Authorizing the Quebec Department of Roads to widen the highway where it crosses the C.N.R., in the Parish of St. Patrice de Sherrington, County of Napierville, P.Q.

83857 June 1—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Sheffield Mills, Nova Scotia.

83858 June 1—Approving proposed location of warehouse of Imperial Oil Limited, near the tracks of the Northern Alberta Railways Company at Lac La Biche, Alberta.

83859 June 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank, etc., at Gilbert Plains, Manitoba.

83860 June 1—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing the proposed location of storage tanks, etc., at Noranda, P.Q.

83861 June 1—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the C.P.R. under section 8.

83862 June 1—In the matter of approval of plan submitted to the New York Central Railroad Company by Nionta Oil Limited, showing the proposed location of storage tank, etc., at Fort Erie, Ontario.

83863 June 2—Relieving the C.P.R. from erecting cattle guards at certain crossings of its railway and the highway, in the Province of Saskatchewan, on its Kisbey Subdivision.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV JULY 15, 1954 No. 8

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, $3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

GENERAL ORDER No. 796

In the matter of the application of the Manitoba Transportation Commission for an Order amending Appendix "C" of General Order No. 581:

File No. 40994

THURSDAY, the 3rd day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Appendix "C" of General Order No. 581, be, and it is hereby, amended by striking out the words "Winnipeg Board of Trade" in the said Appendix and substituting therefor the words "Manitoba Transportation Commission."

HUGH WARDROPE,
Assistant Chief Commissioner.

89373—1

ORDER No. 83932

In the matter of the application of the Cayuga Steamship Company Limited, under section 15 of the Transport Act, for approval of a resolution adopted by the Board of Directors of the Company on May 7, 1954, authorizing the President of the Company or in the alternative the Managing Director of the Company to prepare and issue tariffs of the tolls to be charged by the Company in respect of the operation of the ship "Cayuga" and to submit the same to and file the same with the Board:

File No. 42081·31

FRIDAY, the 11th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said resolution of the Cayuga Steamship Company Limited, on file with the Board under file No. 42081·31, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83931

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated April 28, 1954:

File No. 40994·59

FRIDAY, the 11th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections filed—

It is ordered that the agreed charge, dated April 28, 1954, between the Canadian National Railways, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Essex Terminal Railway Company, The New York Central Railroad Company (Michigan Central District), Wabash Railroad Company and Ford Motor Company of Canada Limited, on automobile engine assemblies as specified therein, applicable from East Windsor, Windsor and Walkerville, Ontario, to Oakville, Ontario, as specified therein, on file with the Board under file No. 40994·59, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 29th day of April, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83985

In the matter of filing of tariffs by The Bell Telephone Company of Canada:

Case No. 955·161

MONDAY, the 21st day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that revisions to tariff C.T.C. No. 6716, consisting of original pages 1 to 198 inclusive, filed to become effective July 6, 1954, under Filing Advice No. 4185, be, and they are hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83986

In the matter of the application of the Canadian Freight Association under the provisions of Part V of the Transport Act for approval of an agreed charge dated April 2, 1954:

File No. 40994·57

MONDAY, the 21st day of June, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge dated April 2, 1954, between the Canadian National Railways Company, Canadian Pacific Railway Company and Hi-Way Refineries Limited on all petroleum products (except crude oil) as specified therein from Saskatoon, Saskatchewan, to railway stations and/or destinations in the Province of Manitoba, except stations on the Canadian National Railways, taking Index Nos. 9020 to 9090 inclusive, in Canadian Freight Association (Western Lines) Tariff No. 209, Agent J. F. Flynn's C.T.C. No. 540, and stations North of Sherridon, Manitoba, specified therein, on file with the Board under file No. 40994·57, be, and it is hereby, approved; and that the period for which the said agreed charge is hereby approved shall extend from the 5th day of April, 1954, to January 27, 1955, both dates inclusive.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84023

In the matter of the application of Trans-Canada Pipe Lines Limited and Western Pipe Lines for an Order amending Order No. 83618, dated the 27th day of April, 1954, which gave leave to Trans-Canada Pipe Lines Limited and Western Pipe Lines to construct a pipe line for the transportation of natural gas from a point on the international boundary in the Niagara River approximately three miles north of the Lewiston Bridge, continuing approximately in a southwesterly direction to a point north of the Village of Allenburg and thence generally in a westerly direction passing through the Counties of Lincoln and Wentworth to the vicinity of the Village of Ancaster; from this point the line will continue northerly across the Dundas Marshes changing to northeasterly through Halton County and terminating at the westerly boundary of Peel County near the Village of Sheridan:

File No. 45371·20·1

MONDAY, the 21st day of June, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon considering the application and submissions filed; and upon hearing Counsel for Trans-Canada Pipe Lines Limited and Western Pipe Lines—

It is ordered that Order No. 83618, dated April 27, 1954, be, and it is hereby, amended by striking out the words "Trans-Canada Pipe Lines Limited and" in the operative part of the said Order.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,

MAY, 1954

Railway Accidents	150	Killed	8	Injured	156
Level Crossing Accidents ...	13	Killed	10	Injured	12
Total	163		18		168

	Killed	*Injured*
Passengers	—	34
Employees	2	111
Others	16	23
Total	18	168

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Nova Scotia

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 8542.

Quebec

2	—	Automobile ran into side of train Licence: Que. 47107.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: F-84205.
1	—	Automobile drove onto crossing in front of approaching Budd car and was struck. Licence: Que. 88123.

Ontario

—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Mich. CT-5268.
1	2	Automobile ran into side of train. Licence: Ont. 5139-G.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.Y. BF-36-66.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 47091-B.

Manitoba

2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.

Alberta

—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. XF-357.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. JY-305.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. FE-508.

Of the 13 accidents at Highway crossings, 9 occurred at unprotected crossings, and 4 at protected crossings. Seven occurred after sunrise and six after sunset.

Ottawa, Ontario, June 25, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

83864 June 2—In the matter of the application of The Algoma Central and Hudson Bay Railway Company for approval of By-law authorizing the Traffic Manager to prepare and issue tariffs and tolls.

83865 June 2—In the matter of approval of plan submitted by the C.N.R. on behalf of the Department of National Defence showing the location of unloading facilities for the handling of inflammable liquids at Pagwa, Ontario.

83866 June 2—Approving proposed location of storage tank, etc., of General Motors of Canada Limited, near the C.N.R. tracks at Oshawa, Ontario.

83867 June 2—Approving proposed location of loading points, etc., of C.N.R. for the handling and storage of inflammable liquids near their tracks at Sioux Lookout, Ontario.

83868 June 2—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Tisdale Subdivision, Saskatchewan.

83869 June 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Chatham, New Brunswick.

83870 June 2—Approving proposed location of unloading points, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Victoriaville, Quebec.

83871 June 2—In the matter of the application of the C.N.R. for an Order amending Order No. 83079, dated February 3, 1954, which authorized the installation of automatic protection at the crossing of their railway and Old Belleville Road, west of the station at Napanee, Ontario.

83872 June 2—Authorizing the C.P.R. to close the crossing in the Municipal District of Lamont No. 82, Alberta.

83873 June 2—Authorizing the Dominion Atlantic Railway Company, to remove the station agent and appoint a caretaker at Paradise, NS..

83874 June 2—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Stettler Subdivision, Alberta.

83875 June 2—Authorizing the City of Wetaskiwin, Alta., to construct 47th Avenue across the C.P.R. at mileage 56·84 Leduc Subdivision, Alberta.

83876 June 3—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

83877 June 3—Authorizing the C.P.R. to construct its tracks across the road allowance west of the Northwest quarter of section 19, Twp. 10, Rge. 18, West Principal Meridian, Manitoba.

83878 June 3—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83879 June 3—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

83880 June 3—In the matter of the application of the C.N.R. for an Order extending the time within which they were authorized by Order No. 82888, dated January 13, 1954, to operate over the most northerly track crossing Fulford Street, the most northerly three tracks crossing Canning Street; the most northerly three tracks crossing Chatham Street; etc., all in the City of Montreal, Quebec.

83881 June 3—Approving proposed location of storage tanks, etc., of C.N.R. at Prince Albert, Saskatchewan.

83882 June 3—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 82133, dated September 9, 1953, to install certain protection at the crossing of the highway in the Village of Villeneuve, Quebec.

83883 June 3—Approving revised plan showing changes in the signal protection at the crossing of the C.N.R. railway and Fifth Avenue, Ville St. Pierre, Quebec.

83884 June 3—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited, showing the proposed location of pipe lines, etc., at Swift Current, Saskatchewan.

83885 June 3—In the matter of approval of plan submitted to the C.N.R. by Niagara Packers Limited showing the proposed location of pipe lines, etc., at Grimsby, Ontario.

83886 June 3—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Duck Lake, Saskatchewan.

83887 June 3—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near the C.P.R. tracks at Vulcan, Alberta.

83888 June 3—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Canadian Freight Association under sections 3 and 8.

83889 June 4—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of the two railways at Carberry, Manitoba.

83890 June 4—Authorizing the C.P.R. to close and abandon its station at Bennington, Ontario.

83891 June 4—In the matter of the protection at the crossing of the C.P.R. (Canadian International Paper Company's spur) and Highway No. 8 at Gatineau, Quebec.

83892 June 7—In the matter of the application of the Department of Public Works, Manitoba, for an Order authorizing the C.P.R. to install automatic protection at the crossing of the Trans-Canada Highway in the Municipality of St. Boniface, Manitoba.

83893 June 7—Approving the operation of the C.P.R. trains over the private siding serving Dowell Incorporated in the Manchester Industrial Area at Calgary, Alberta.

83894 June 7—Authorizing the C.N.R. to install automatic interlocker in lieu of the mechanical interlocking at the crossing of their railway and the railway of the C.P.R. near Balcarres, Saskatchewan.

83895 June 7—Authorizing the C.N.R. to construct sidings across the highway at Windsor Junction, N.S., to serve Products Tank Car Shops of Canada Limited.

83896 June 4—In the matter of the application of Fort William rates as maxima in respect of mileage rates on grain products within Western Canada, as prescribed by General Order No. 125, dated May 30, 1914.

83897 June 8—Authorizing the C.P.R. to construct a private siding to serve Hudson Paper Company Limited across 50th Ave. South East and 2nd Street South East, in the Manchester Industrial Area, in the City of Calgary, Alberta.

83898 June 8—Authorizing the C.P.R. to construct a private siding to serve Coutts Machinery Company Limited across a lane in Manchester Industrial Area, Calgary, Alberta.

83899 June 8—In the matter of the application of the C.N.R. re changes in interlocking at the drawbridge at Cambridge, Ontario.

83900 June 8—Approving Supplement to Service Station Contract between the Bell Telephone Company and The South Brant Rural Telephone Company Limited.

83901 June 8—Authorizing the C.N.R. to remove the caretaker at St. Agnes, Quebec.

83902 June 8—In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act and Order of the Board No. 83488, dated April 7, 1954, approving tolls published in Tariff C.T.C. No. E. 5198 filed by the Canadian Pacific Railway Company.

83903 June 8—In the matter of the application of Associated Foundry Limited for review and cancellation of the charge fixed by the Board under the provisions of the Transport Act for Warden King Limited by Order No. 82878, dated January 11, 1954.

83904 June 8—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83905 June 8—In the matter of the application of the Union Telephone Company, Limited, for telephone connection with The Bell Telephone Company, and for compensation respecting long distance service.

83906 June 8—Approving Supplement to Service Station Contract between the Bell Telephone Company and The Admaston Rural Telephone Association Limited.

83907 June 8—Approving Traffic Agreement and revised Appendix between the Bell Telephone Company and the Lievre Valley Telephone Company.

83908 June 8—Restricting the speed of C.N.R. trains at the crossing of Second Avenue, Port Arthur, Ontario.

83909 June 9—Authorizing the C.P.R. to abandon the operation of that portion of its line from St. George to Bonny River, New Brunswick.

83910 June 9—In the matter of consideration of protection at the crossing of the industrial lead to the plywood plant of Canadian International Paper Company and the railway of the C.P.R. at Gatineau, Quebec.

83911 June 9—Authorizing the C.P.R. to operate the bridge at mileage 112·4, Cartier Subdivision, Ontario.

83912 June 9—Approving location of the new station building proposed to be erected by the C.P.R. at Heron Bay, Ontario.

83913 June 9—Approving proposed location of storage tanks, etc., of Northern Gas Limited near tracks of the Northern Alberta Railways Company at Dawson Creek, British Columbia.

83914 June 9—Approving proposed location of storage tanks, etc., of C.P.R. west of their station at Calgary, Alberta.

83915 June 9—Approving operation of C.P.R. trains over private siding serving T. J. Pounder and Company Limited, Winnipeg, Manitoba.

83916 June 9—Authorizing the C.N.R. to remove the gates at the crossing of Bridge Street at Yarker, Ontario.

83917 June 9—Authorizing the C.P.R. to relocate the flashing light signals at the crossing of County Road No. 25, Province of Ontario, at mileage 105·6, Winchester Subdivision.

83918 June 9—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariffs filed by the C.F.A. under sections 3 and 8.

83919 June 9—Authorizing the C.N.R. to use the trestles at mileages 63·5, 80·7 and 93·3, Sangudo Subdivision, Alberta.

83920 June 9—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariffs filed by the Cumberland Railway and Coal Company under section 8.

83921 June 10—Permitting the removal of slow order at C.P.R. crossing and 55th Avenue, Lachine, Quebec.

83922 June 11—Authorizing the New York Central Railroad Company to close the station building at Fletcher, Ontario.

83923 June 11—Authorizing the C.N.R. to close Welland Junction, Ontario, as an agency point.

83924 June 11—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., at Stratford, Ontario.

83925 June 11—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Arrowwood, Alberta.

83926 June 11—Permitting the removal of slow order at C.N.R. crossing first south of station at Bowsman, Manitoba.

83927 June 11—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariffs filed by the C.F.A. under sections 3 and 8.

83928 June 11—Authorizing the C.N.R. to operate their trains through the interlocking at the crossing of their railways at mileage 115·27, Lewvan Subdivision near Regina, Saskatchewan.

83929 June 11—Authorizing the C.N.R. to make changes to automatic block signals at Kingston, Ontario.

83930 June 11—Authorizing the C.N.R. to make changes in the interlocking of the drawbridge at Bala Park, Ontario.

83931 June 11—In the matter of application of C.F.A. under the provisions of Part V of the Transport Act for an approval of an agreed charge, dated April 28, 1954.

83932 June 11—In the matter of application of Cayuga Steamship Company Limited for approval of a resolution authorizing certain officials to issue tariffs of tolls.

83933 June 11—Approving revised plan showing protection as installed at the crossing of C.N.R. and Highway No. 74, north of New Sarum, Ontario.

83934 June 14—Permitting the removal of slow order at C.N.R. crossing east of station at Mallorytown, Ontario.

83935 June 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Lucky Lake, Saskatchewan.

83936 June 14—Approving the proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Big River, Saskatchewan.

83937 June 14—Approving proposed location of storage tanks, etc., of the Winnipeg Central Heating Company Limited near C.P.R. tracks at Winnipeg, Manitoba.

83938 June 14—Authorizing the C.N.R. to make changes to certain automatic block signals at Colborne, Ontario.

83939 June 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Hazlet, Saskatchewan.

83940 June 14—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Langham Subdivision, Saskatchewan.

83941 June 14—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Robin Hood Subdivision, Saskatchewan.

83942 June 14—Authorizing the Interprovincial Pipe Line Company to construct a third pipe line across the South Saskatchewan River, in the Province of Saskatchewan.

83943 June 15—Approving proposed location of storage tanks, etc., of Propane Service Company for liquefied petroleum gases near C.N.R. tracks at Fort Frances, Ontario.

83944 June 15—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83945 June 15—Authorizing the Ontario Department of Highways to construct its highway along and upon the right-of-way of The Algoma Central and Hudson Bay Railway in the Townships of Deroche and Aweres, Ontario.

83946 June 15—Authorizing the C.N.R. to replace the mechanical interlocker at the crossing of their railway and the C.P.R. near Knox, Manitoba.

83947 June 15—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone upon, along, over and under certain public highways in the Corporation of the Township of Harwich, County of Kent, Ontario.

83948 June 15—Approving revised special form of Bill of Lading for use by the Canadian Government only.

83949 June 16—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

83950 June 16—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

83951 June 16—Relieving the C.N.R. from erecting and maintaining right-of-way fencing between certain mileages on Oyen Subdivision, Alberta.

83952 June 16—Dismissing the application of the St. Simon de Rimouski, Quebec, for an order authorizing the construction of a level crossing over the C.N.R. in St. Simon de Rimouski, Quebec.

83953 June 16—Authorizing the C.N.R. to construct a tunnel to connect Shed 21 to the Customs Annex in the City of Halifax, Nova Scotia.

83954 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at MacRorie, Saskatchewan.

83955 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Birch Hills, Saskatchewan.

83956 June 17—In the matter of the application of the Bell Telephone Company of Canada for leave to exercise its statutory powers to construct its lines of telephone upon, along, over and under certain public highways in the Township of Chatham, County of Kent, Ontario.

83957 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Oakville, Manitoba.

83958 June 17—Approving proposed location of pipe lines of Imperial Oil Limited near the C.N.R. tracks at St. John's, Newfoundland.

83959 June 18—In the matter of Order of the Board No. 82719, dated December 10, 1953, approving tolls published in Tariff C.T.C. No. 1220, filed by the Dominion Atlantic Railway Company.

83960 June 18—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the Dominion Atlantic Railway Company under section 8.

83961 June 18—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Fort Saskatchewan, Alberta.

83962 June 18—Authorizing the C.N.R. to construct a bridge over Wedeene River, British Columbia.

83963 June 18—In the matter of changes in the rate grouping of certain telephone exchanges of the British Columbia Telephone Company.

83964 June 18—Authorizing the C.N.R. to construct a bridge over Wedeene River, British Columbia.

83965 June 18—Authorizing the C.N.R. and C.P.R. to operate their trains through the Queen's Wharf Interlocker, Toronto Terminals, Ontario.

83966 June 18—Authorizing the Saskatchewan Department of Highways and Transportation to construct the Trans-Canada Highway across the right-of-way of the C.P.R. by means of an overhead bridge at mileage 94·64, Maple Creek Subdivision, Saskatchewan.

83967 June 18—Authorizing the Saskatchewan Department of Highways and Transportation to construct the Trans-Canada Highway across the right-of-way of the C.P.R. by means of an overhead bridge at mileage 105·49, Swift Current Subdivision, Saskatchewan.

83968 June 18—In the matter of application of Canadian Arsenals Limited in regard to shipments of propellant explosives.

83969 June 21—Approving proposed location of storage tanks, etc., of C.P.R. at Fort William, Ontario.

83970 June 21—Approving proposed location of pipe lines of Shell Oil Company of Canada Limited near the tracks of C.N.R. at Sherbrooke, Quebec.

83971 June 21—Authorizing the C.N.R. to reconstruct the bridge over a gully at mileage 109·3 Ashcroft Subdivision, British Columbia.

83972 June 21—In the matter of application of C.P.R. for an order for extension of time within which it was required by Order No. 82704, dated December 8, 1953, to install automatic protection at the crossing of its railway at mileage 3·64 Carberry Subdivision and the C.N.R. at mileage 5·74 Oak Point Subdivision and Rosser Road in the Village of Brooklands, Manitoba.

83973 June 21—Authorizing the N.S.C. & T. Railway Company to construct a siding across Berryman Avenue, St. Catharines, Ontario.

83974 June 21—In the matter of the removal of the diamond at the crossing of C.N.R. and the railway of The Abitibi Power and Paper Company Limited near Stimson, Ontario, and in the matter of application of The Abitibi Power and Paper Company Limited for an order rescinding certain orders in connection therewith.

83975 June 21—In the matter of application of the British Columbia Telephone Company for an order approving and recommending to the Governor in Council for sanction an agreement between the Chilliwack Telephones Limited and the British Columbia Telephone Company.

83976 June 22—In the matter of application of the British Columbia Telephone Company for an order approving and recommending to the Governor in Council for sanction an agreement between the Chilliwack Telephones Limited and the British Columbia Telephone Company.

83977 June 21—In the matter of protection at the crossing of Richmond Street and the railway of the C.P.R. in the City of London, Ontario.

83978 June 21—In the matter of approval of plan submitted by the C.P.R. on behalf of the Canadian Gulf Oil Company, showing location of their loading rack for the loading of crude oil at Frobisher, Saskatchewan.

83979 June 21—In the matter of approval of plan submitted by Imperial Oil Limited showing proposed location of storage tanks, etc., at Wawota, Saskatchewan.

83980 June 21—In the matter of approval of plan submitted to the C.N.R. by Atlas Powder Company Canada Limited showing proposed location of storage tanks, etc., at Brantford, Ontario.

83981 June 21—Approving proposed location of storage tank, etc., of the C.P.R. at the east end of the station at Fort William, Ontario.

83982 June 21—Authorizing the C.N.R. to make changes to the interlocking plant at Mimico, Ontario.

83983 June 21—Authorizing the C.N.R. to remove the diamond crossing and interlocking plant at the crossing of the C.P.R. line of railway at Montfort Junction, Quebec.

83984 June 21—Approving abandonment of operation of the C.P.R. line of railway from Redfield to Ravenhead, Whitkow Subdivision, Saskatchewan.

83985 June 21—Approving the Bell Telephone Company of Canada's tariff C.T.C. No. 6716 filed to become effective July 6, 1954.

83986 June 21—In the matter of the application of the Canadian Freight Association under the provisions of Part V of the Transport Act for approval of an agreed charge dated April 2, 1954.

83987 June 21—Authorizing the C.P.R. to construct and operate proposed industrial track from a point on their Nitrogen Spur at mileage 2·0 MacLeod Subdivision in the City of Calgary, Alberta.

83988 June 21—Approving operation of the C.P.R. trains, etc., over the private siding serving Tide Water Associated Oil Company at mileage 9·22 Altawan Subdivision, Saskatchewan.

83989 June 21—Authorizing the C.P.R. to construct a branch line of railway to serve the International Nickel Company of Canada Limited at mileage 4·68 on its Webbwood Subdivision, District of Sudbury, Ontario.

83990 June 21—Approving location of the Quebec North Shore and Labrador Railway Company's line of railway from mileage 220 to mileage 340, Province of Quebec.

83991 June 22—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Turtleford Subdivision, Prince Albert Division, Saskatchewan.

83992 June 22—Requiring the C.N.R. to install two flashing light signals and one bell at the crossing of Balaclava Street, St. Thomas, Ontario.

83993 June 22—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Aultsville, Ontario.

83994 June 22—In the matter of the application of the Ontario Department of Highways for an order amending Order No. 77150 dated August 9, 1951, which authorized the construction of Highway No. 17 across the C.P.R. at mileage 35 Webbwood Subdivision, Ontario.

83995 June 22—Permitting the removal of slow order at C.P.R. crossing of Regent Street, Sudbury, Ontario.

83996 June 22—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along a certain public highway in the County of Kent, Ontario.

83997 June 22—Authorizing the C.N.R. to operate the bridges at mileages 8·1, 53·0 and 97·1, Robinhood Subdivision, Saskatchewan.

83998 June 22—Authorizing the Ford Motor Company of Canada Limited, to construct a pedestrian overpass across the right-of-way of the Essex Terminal Railway Company, Windsor, Ontario.

83999 June 22—In the matter of the application of the C.P.R. for approval of plan showing proposed shortening of track circuits at the first crossing south of Upper Kent Station, New Brunswick.

84000 June 22—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under section 3.

84001 June 22—Approving under the Maritime Freight Rates Act tolls published in revised page of tariff filed by the Canadian Pacific Railway Company, under section 8.

84002 June 22—Authorizing the C.N.R. to operate certain bridges on their Amiens Subdivision, Saskatchewan.

84003 June 22—Authorizing the City of Brantford, Ontario, to construct a public pedestrian crossing across the tracks of the C.N.R. and the Lake Erie and Northern Railway Company, Brantford, Ontario.

84004 June 22—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Standard Chemical Company Limited.

84005 June 22—In the matter of the application of Western Pipe Lines for an order approving plan, profile and book of reference showing the location of their company's pipe lines within the County of Lincoln and the County of Welland, Ontario.

84006 June 22—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing the proposed location of pipe lines, etc., at Naicam, Saskatchewan.

84007 June 22—In the matter of approval of plan submitted by the C.P.R. showing the proposed location of pipe lines, etc., for the handling and storage of inflammable liquids at Winnipeg, Manitoba.

84008 June 22—In the matter of approval of plan submitted by the C.P.R. showing the proposed location of pipe lines, etc., for storage and handling of inflammable liquids west of the station at Winnipeg, Manitoba.

84009 June 22—In the matter of approval of plan submitted by the Northern Alberta Railways Company on behalf of Amerada Petroleum Company showing facilities for the loading of crude oil at Kenzie, Alberta.

84010 June 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Ridgeville, Manitoba.

84011 June 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of pipe lines, etc., at Kitscoty, Alberta.

84012 June 22—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of pipe lines, etc., at Kamloops Junction, British Columbia.

84013 June 22—In the matter of approval of plan submitted by the C.N.R. showing proposed location of pipe lines, etc., at Redditt, Ontario.

84014 June 22—In the matter of the application of the C.P.R. for approval of plan showing the proposed lengthening of the operating circuits at the crossing of the highway east of Mountain Station, Ontario.

84015 June 22—In the matter of the application of the Saskatchewan Department of Highways and Transportation, for an order authorizing the installation of automatic protection at the crossing of the C.P.R. and the Trans-Canada Highway at Java, Saskatchewan.

84016 June 22—Permitting the removal of slow order at the crossing of Naylor Road by the N.Y.C.R. being the second public crossing east of the station at Essex, Ontario.

84017 June 23—In the matter of the application of the Interprovincial Pipe Line Company, for an order approving the plan, profile and book of reference, showing the location of a deviation in their pipe line in the N.E. ¼ of Section 31, Twp. 27, Rge. 7, W3M, in the Province of Saskatchewan.

84018 June 23—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of pipe lines, etc., at Jasper, Alberta.

84019 June 23—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Broderick, Saskatchewan.

84020 June 23—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Milo, Alberta.

84021 June 23—In the matter of approval of plan submitted to the C.N.R. by Playtax Limited, showing the proposed location of pipe lines, etc., at Arnprior, Ontario.

84022 June 23—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Kennedy, Saskatchewan.

84023 June 21—In the matter of the application of Trans-Canada Pipe Lines Limited and Western Pipe Lines for an order amending Order No. 83618, dated April 27, 1954, which gives leave to Trans-Canada Pipe Lines Limited and Western Pipe Lines to construct a pipe line for the transportation of natural gas from a point on the international boundary to certain points in the Niagara River, Ontario.

84024 June 24—In the matter of the application of the C.N.R. for approval of plan showing revisions to the interlocker at the crossing of the C.P.R. at Port Arthur, Ontario.

84025 June 24—Approving operation of C.P.R. trains, etc., over the private siding serving Sturdie Propane Limited, Calgary, Alberta.

84026 June 24—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84027 June 24—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84028 June 24—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Camrose, Alberta.

84029 June 24—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Howick, Quebec.

84030 June 24—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Kelliher, Saskatchewan.

84031 June 24—Authorizing the British Columbia Forest Products Limited, to construct a log conveyor across the C.N.R. spur serving the plywood mill in the City of Victoria, British Columbia.

84032 June 24—Authorizing the British Columbia Department of Public Works to construct the highway across the right-of-way of the C.N.R. at Vavenby, British Columbia.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

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Judgments, Orders, Regulations, and Rulings

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Application of Associated Foundry Limited, Vancouver, B.C., for review and cancellation of charge fixed by Order No. 82878, dated January 11, 1954, for Warden King Limited on Cast Iron Pipe from Montreal, Que., to points in British Columbia.

File No. 40994·44

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
HOWARD B. CHASE, C.B.E., *Commissioner.*

Appearances:

J. M. COYNE, for Associated Foundry Limited.
D. R. MCMASTER, Q.C., for Warden King Limited.
J. W. G. MACDOUGALL, for Canadian National Railways.
G. P. MILLER, for Canadian Pacific Railway Company.

JUDGMENT

WARDROPE, A.C.C.:

Associated Foundry Limited, of Vancouver, B.C., applies for an Order cancelling Order No. 82878 of January 11, 1954, in so far as such Order fixed a charge for Warden King Limited, of Montreal, Que., on Cast Iron Pipe from Montreal, Que., to Prince Rupert, Vancouver, and Watson Island, B.C., the same as Agreed Charge applicable to shipments of such pipe from the Canada Iron Foundries Limited and National Iron Corporation Limited from Toronto, Ont., and Trois Rivieres, Que.

92930—1

The said charge was so fixed under the provisions of subsection 8, section 32 of the Transport Act upon the allegation by Warden King Limited that its business would be unjustly discriminated against unless such charge be fixed. The application for the fixed charge was also communicated to the Canadian Freight Association, as representative of the participating carriers in the Agreed Charge, who expressed willingness that the application be granted.

While no extended reference need be made to the Agreed Charge approved by the said Order, in as much as our reasons for such approval were set out in our Judgment of February 11, 1954, (44 J.O.R. & R. 1), it should be noted that the agreed charge was for the purpose of meeting foreign competition at the Pacific Coast, which competition was of sufficient intensity to exclude the shippers at Toronto and Trois Rivieres from selling goods in that market. Incidental to the object aforesaid was the railways' unwillingness to establish competitive tariff rates due to the incidence of the so-called "one-third rule" as required by Section 337 of the Railway Act.

The type of pipe contemplated by the Agreed Charge is for water main purposes. Such pipe, however, is made of cast iron, and the description of the commodity in the agreed charge is sufficiently broad to include all types of cast iron pipe and fittings for same.

The application of Warden King Limited asserted unjust discrimination by reason of the broad description of the commodity, although at no time did it contend that its product was used for the same purpose. It appears that the commodity manufactured and shipped by Warden King Limited is Cast Iron Soil Pipe, which we are now told is manufactured by a different process and is shipped in different sizes and lengths.

In the present application there is no contention that our approval of the agreed charge was in error, but it is contended that some confusion has occurred by reason of the Board's acceptance of the application for a fixed charge on a product which differs in its purpose although made of substantially the same materials.

At the core of the present application the fact that Associated Foundry Limited is one of two manufacturers of soil pipe and fittings in British Columbia, and that the competition which is encountered by Warden King Limited in the British Columbia market is principally that of the applicant.

As to foreign imports of cast iron soil pipe, it was stated in evidence that such imports in the year 1953 did not exceed 10 per cent of the production of Associated Foundry Limited, although it was stated that imports from foreign producers has been increasing in the past few years.

It was stated in evidence that Associated Foundry Limited obtains its raw materials from eastern points involving long hauls by rail, and that it pays normal tariff rates on its finished products going to market. It was contended that it is unjustly discriminatory to the applicant for Warden King Limited to be assisted by rate reduction to sell in the British Columbia market, and that if such a condition continues to exist it can only result in reduced production in British Columbia with consequent curtailment of the movement of inbound raw materials and a like curtailment of freight revenue thereon.

Counsel for the applicant argues that under subsection 15 of Section 32 these are relevant considerations affecting particularly the net revenue of the carrier and the effect on the business of any shipper objecting thereto.

I have carefully reviewed the matter, and in view of the basic facts which the Board accepted as justifying approval of the Agreed Charge, namely the meeting of foreign competition, which purpose could not be adequately secured by means of a competitive tariff rate, I am of the opinion that the fixing of a like charge for Warden King Limited was not justified by the circumstances which exist and which are now more fully disclosed. At no time

was the Board made aware that the products of Warden King Limited were in competition with a local producer in the destination area; rather, the Board fixed the charge on the understanding that the product was the same as or similar to that described in the Agreed Charge and was subjected to the same competitive considerations from foreign sources. In the light of the evidence now presented, that feature appears to be erroneous.

It should be noted that the powers granted to the Board, under subsection 8 of Section 32, to fix a charge must be founded upon a showing of unjust discrimination. The Board has dealt with matters of unjust discrimination in many previous cases, but a basic requirement is that evidence is necessary as to how rates complained of react to the detriment of the applicant and not merely from the difference in the rates charged. Considering the fact that Canada Iron Foundries Limited, and National Iron Corporation, Limited, do not appear to manufacture and ship the same products as manufactured by Warden King Limited and that foreign imports of cast iron soil pipe into the British Columbia market are relatively small; also that a substantial production of cast iron soil pipe occurs in British Columbia, it is evident that the making of the Agreed Charge for the type of pipe to be shipped thereunder does no harm to Warden King Limited notwithstanding the fact that the commodity description in the agreed charge is broad enough to embrace all types of cast iron pipe and fittings.

Counsel for Warden King Limited contended that it would be possible for cast iron soil pipe to be shipped under the agreed charge and if the signatory parties to the agreement should choose to do so it would be detrimental to Warden King Limited and constitute unjust discrimination. There was, however, no evidence to show that such a condition had occurred or was likely to occur.

In the light of the evidence now received I am of the opinion that the parties to the agreed charge should review the commodity description and so amend it as to remove this possibility. An amendment in satisfactory terms should therefore be undertaken immediately and a signed copy thereof submitted to the Board for approval.

It was asserted by the representative of Warden King Limited, and concurred in by Counsel for the Canadian National Railways, that the element of foreign competition justified the continuance of the fixed charge, and that if the said charge was cancelled it would be necessary to negotiate an agreed charge, thereby leaving the situation substantially the same as it now is.

I am not greatly impressed by this submission. If an agreed charge is the only means of meeting a situation of the kind described it will be time enough to consider its merits when it is submitted for approval when other manufacturers of cast iron soil pipe will have notice thereof and be able to make such representations as, to them, may be justified.

I find, therefore, that Order No. 82878, in so far as it fixed a charge for Warden King Limited should be revoked and an Order to that effect will go establishing such revocation as of the 15th day of June, 1954.

HUGH WARDROPE.

OTTAWA, June 2, 1954.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 83903

In the matter of the application of Associated Foundry Limited for review and cancellation of the charge fixed by the Board under the provisions of the Transport Act for Warden King Limited by Order No. 82878, dated January 11, 1954:

File No. 40994·44

TUESDAY, the 8th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on the 17th day of May, 1954, in the presence of Counsel for the Associated Foundry Limited, Warden King Limited, Canadian National Railways and the Canadian Pacific Railway Company—

It is ordered that Order No. 82878, dated January 11, 1954, in so far as it fixed a charge for Warden King Limited, be, and it is hereby, revoked, such revocation to become effective the 15th day of June, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

Application of the Union Telephone Company, Limited, under Section 380 of The Railway Act, for Telephone Connection with The Bell Telephone Company of Canada, and for Compensation Respecting Long Distance Service.

File No. 3839·347

HEARD at Ottawa, March 16, 17, 18, 19, 1954.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

N. A. MUNNOCH, Q.C., for The Bell Telephone Co. of Canada.
Hon. A. W. ROEBUCK, Q.C., for the Union Telephone Co., Limited.

JUDGMENT

WARDROPE, A.C.C.:

The applicant is the Union Telephone Company, Limited, hereinafter sometimes referred to as "Union", a corporation authorized by Letters Patent dated December 4, 1908, under the Ontario Companies Act, to carry on the general business of a telephone company in the Townships of Peel and Maryborough in the County of Wellington, and in the Village of Drayton. It carries on business under the jurisdiction of the Ontario Municipal Board.

The respondent, The Bell Telephone Company of Canada, hereinafter sometimes referred to as "Bell", was incorporated by special Act of the Parliament of Canada, 43 Victoria (1880) Chapter 67, and as subsequently amended. It is subject to the jurisdiction of the Board by virtue of its Acts of incorporation and by the provisions of the Railway Act.

By Section 380 of the Railway Act, Bell is required to file with the Board its tariffs of tolls charged to the public and to secure the Board's approval thereof. Additionally, all contracts, agreements and arrangements for the interchange of messages or service, and the divisions of revenue and the management, working or operation thereof, are subject to the Board's approval.

Because the present application was launched more specifically under subsection 8 of Section 380, I insert the whole subsection, as follows:

> "(8) Whenever any company or any province, municipality or corporation, having authority to construct and operate, or to operate, a telephone system or line and to charge telephone tolls, whether such authority is derived from the Parliament of Canada or otherwise, is desirous of using any telephone system or line owned, controlled or operated by the company, in order to connect such telephone system or line with the telephone system or line operated or to be operated by such first mentioned company, or by such province, municipality or corporation for the purpose of obtaining direct communication, whenever required, between any telephone or telephone exchange on the one telephone system or line and any telephone or telephone exchange on the other telephone system or line, and cannot agree with the company with respect to obtaining such use, connection or communication, such first mentioned company or province, municipality or corporation may apply to the Board for relief, and the Board may order the company to provide for such use, connection or communication, upon such terms, including compensation if any, as the Board deems just and expedient, and may order and direct how, when, where, by whom, and upon what terms and conditions such use, connection, or communication shall be had, constructed, installed, operated and maintained."

Union is a telephone system without means of its own to switch the calls of its subscribers between the 31 circuits which it maintains. In the Bell tariffs it is defined as a Service Station System, and is one of 265 such systems served by Bell. It supplies rural line service centred on Drayton, Ontario, to some 480 subscribers, such subscribers averaging 16 per circuit. Its equipment, generally speaking, consists of open wire lines, poles, and telephone instruments. Operation is by magneto sets and subscribers connected to one circuit may intercommunicate without requiring the service of a switchboard.

By contract with Bell the Union circuits are connected to the Bell switch board in the Drayton exchange of the latter; such connections are made at approximately the municipal boundary and involve Bell in bringing the Union circuits over its own lines to the exchange office.

By connection to the Bell switchboard the Union subscribers are able to communicate with all subscribers of the latter, and also, by the terms of the contract, communicate freely with Bell subscribers in the Drayton exchange.

For the service thus performed Bell charges Union 90¢ per month for each Union subscriber. It is understood that Union incorporates this charge in its accounts to its subscribers and has the approval of the Ontario Municipal Board to do so.

Bell deals with Union subscribers only to the extent of providing the switching service, otherwise it considers Union to be the single subscriber and conducts its business solely therewith.

To all external appearances, and in fact, Bell treats Union subscribers in exactly the same manner as its own customers, i.e., it switches their calls, and furnishes long distance service as required, includes them in the Drayton telephone directory, and furnishes such directory to each subscriber.

Bell renders its accounts for exchange and long distance service monthly, and therefore such accounts are so rendered to Union for the total of the local service provided, and for the total of long distance tolls which are payable by Union in respect of the latter's subscribers. On the other hand Union renders its account to its customers half yearly. No additional charge is assessed Union customers for the long distance service of Bell which they may use.

Union's revenue, in the main, is derived from its charges for local service, less the amount which is payable to Bell for the switching service.

Exchange rates of Bell are graded according to rate groups predicated upon the total number of telephones in the exchange or local service area. These rate groups were dealt with in our Judgment of 1950 (67 C.R.T.C. 1) when we had before us an application from Bell for a general rate increase. Such rate groups include all telephones connected to the exchange, therefore the telephones of subscribers to Union are part of the telephone count which sets the rate group for the Drayton exchange. It was suggested in the instant case that this condition enabled Bell to secure higher exchange rates than would otherwise prevail, but as we are not here concerned with the matter of exchange rates per se the matter will not be further considered.

It was stated in evidence that Union charges its subscribers, with the approval of the Ontario Municipal Board, the following annual rates:

Wall telephone	$25.90
Cradle telephone	27.90
Desk cradle	28.80

From these rates a discount of 50¢ per half-year is granted for payment within a specified time. Such charges include the switching charge of Bell of 90¢ per month ($10.80 annually). The comparable Bell rates for rural line service in an exchange of equal size are $2.65 for residence and $3.60 for business service per month (equal to $31.80 and $43.20 annually, respectively).

It is to be noted that while the switching rate of 90¢ monthly was established in 1950 as part of the general revenue increase case of Bell, it has not been subsequently increased although rural line rates, and other rates, of Bell have incurred further increases since that time.

Submitted in evidence in this case was exhibit No. 19 by Bell consisting of extracts from the tariffs concerning particularly the type of service here involved and other matter relating to the conditions under which Bell provides service to its customers. As it is believed this exhibit will furnish an understanding of the matter it is included as an appendix to this judgment.

I think the foregoing provides sufficient background of the type of service involved, and I shall now pass on the point at issue.

Notwithstanding that a period of four days was taken to present this application, the issue is relatively simple. Union wants compensation from Bell for the use made of Union facilities in long distance service, and additionally seeks payment by Bell for the service it renders in collecting the long distance charges incurred by Union customers. It is stressed that Union receives no share of long distance revenue although it estimates that fifty per cent of such traffic originates on its lines.

For the purpose of this application it seeks to be paid by Bell for the above two functions on the same basis as the so-called "A" commission set out in connecting agreements involving joint long distance service between Bell and connecting companies. Such connecting agreements apply to conditions where both telephone systems perform long distance service and such

agreements include a formula for the division of the joint revenue. Thereunder it is provided that such division is divided into three parts, "A", concerning the system upon which the call originates, "B", the system performing the actual operating, and further that the remaining joint revenue is pro-rated according to the respective mileage of each system. We dealt with such connecting agreements as to the pro-rate in our Judgment of September 25, 1951, 68 C.R.T.C. 23.

As an alternative to the foregoing, Union asks that we direct Bell to pay it 20 per cent of the long distance charges collected from Union, and to fix, in our discretion, an amount to be paid, in addition, by Bell to Union for the use of Union facilities for such long distance traffic.

Union also makes application "for use, connection and communication" between its system and Bell, and to fix and decide the amount of remuneration Union shall pay to Bell for switchboard service. In short, this phase of the application, which Counsel for Union stated was merely a technicality, appears to be unnecessary inasmuch as Union stated it was already receiving all of the service from Bell that it desired, and likewise Bell stated it had no intention of terminating the existing arrangement for service as long as Union paid Bell its accounts.

Inasmuch as part of the service required by Union is the switching facilities for communication between Union customers, Counsel for Bell points out that the Board is given no jurisdiction to require the provision of this type of service. However, in the absence of any specific application, or perhaps need for such application, I do not propose to deal with this phase of the matter here.

As far as the application for connection may be within the provisions of the Railway Act, it is to be noted that Service Station System service is offered by Bell through the medium of its tariff provisions, as set out in the Appendix hereto. A contract is contemplated thereby in the form of an application which recites that the applicant for service requests the Company:

> "to furnish in accordance with the rates and regulations herein and as contained in its General Exchange Tariff on file at the Company's business office, telephone service as detailed herein and as may be ordered from time to time either orally or in writing, and agrees to pay all toll or other charges in accordance with said rates and regulations."

Union has been provided with service since its incorporation, but the earliest contract on record with the Board is October 6, 1916. A contract was in force dated August 24, 1926, effective September 1, 1926. Such contract contained an undertaking of Union to pay all toll (long distance) charges, but by letter dated May 28, 1952 Bell advised the Board it had received notification from Union that the latter would not be liable for any collecting of messages for the Bell after the 18th of June, 1952, whereupon Bell considered the terms of the contract had been breached and served notice of cancellation of long distance service to or from Union subscribers after the date stated by Union, and further, that the whole contract would be terminated as of midnight September 1, 1952.

Subsequently Union entered into a new contract with Bell re-establishing the former arrangement, but endorsed thereon:

> "Interim Contract pending application to the Board of Transport Commissioners for Canada and effective only until Judgment rendered or subject to the Board's ruling."

and this contract was approved by us.

It might be inferred from this endorsement that the rendering of this judgment will terminate the contract unless we rule otherwise. On the other hand by applying for connection and coupling therewith the request for

compensation, the applicant anticipates we may so amend the terms of the contract as to make a new one necessary. However, if we do not amend the terms of the contract it would seem necessary for the parties to settle the status of the present contract amongst themselves.

I have already mentioned that a period of four days was used for the presentation of this case. There were some 462 pages of transcript and nineteen exhibits. With the exception of exhibit No. 19 which forms the Appendix to this Judgment the majority of other exhibits consisted of financial statements of Union, copies of Letters Patent and authorizations given to Union respecting the business it operates. Most of these exhibits were filed as a result of demand for particulars made by Bell. I have given full and very careful consideration to all that has been adduced but do not intend to summarize the same herein.

At the core of this case is the manner in which long distance service is distinguished from local exchange service. In general, this division takes place at the toll switchboard. In other words, the concept of long distance service is that it applies from toll switchboard to toll switchboard, but local exchange customers may be connected to such toll switchboards and thereby conduct long distance communication through their own telephone instrument. Thus the exchange service telephone performs a dual purpose and a highly essential one for the convenience of all concerned.

It is represented by witness for Bell that rates established for local exchange service do not contemplate any charge for long distance service. Likewise long distance charges are computed by mileage, measured from toll station to toll station. I do not know of any better way to deal with the matter and think that as it has worked out satisfactorily in this manner for a long period of time it is sufficient to commend the method.

By being connected to the Bell switchboard at Drayton, Union subscribers are considered local exchange subscribers in the same manner as are the Bell subscribers in the same exchange or in other exchanges. No charge is made against either for the connection between their instruments and the toll switchboard when long distance service is demanded and given. Union seeks to be compensated for the use its customers make of Bell long distance facilities, yet such customers pay only the Bell charges for the toll mileage between the Drayton toll switchboard and the point called beyond such exchange.

Under subsection 8 of Section 380, where we are empowered to order Bell to provide connection, we are also empowered to state the terms and compensation, if any. In 1915 we issued General Order No. 149 establishing the terms under which connecting service would be given, and therein established the measure of compensation which Bell should receive from the connecting company. Subsequently this matter, which had been somewhat protracted, was taken to the Supreme Court on appeal and there upheld. Full particulars of the issues involved are to be found in 22 C.R.C. 135.

I fail to find anything contained in the pertinent provisions of the Railway Act which would empower this Board to fix compensation to Union for the use of its facilities by its own customers in respect of their long distance communication. It seems to me that if Union desires to be reimbursed for this use it must take the matter to the Board having jurisdiction.

Inasmuch as the claim to "A" commission contemplated partly the compensation for use of facilities, no further consideration need be given to that phase of the application.

This leaves for consideration the claim made for payment of 20 per cent of the long distance charges which Bell collects from Union.

At first glance it would appear that this claim has some merit, or perhaps it could claim sympathetic consideration. However, no matter how much our personal sympathies may prevail we are bound to consider what is before us on the basis of the pertinent facts.

Union's claim for the 20 per cent is predicated upon what it terms the service it performs free of charge for Bell. It objects to such free service involved in the collecting of long distance accounts which are rendered to it monthly; estimating that approximately half of the time of its staff is taken up with the billing and collecting of these accounts from Union customers; that it involves bank over-drafts, losses from bad debts, and the like. It is contended that a collection fee of twenty per cent is a reasonable charge and that it is in need of additional revenue. It is contended further that before it can approach the Ontario Municipal Board for authority to increase its charges for service it must be in a position to satisfy that Board it has exhausted all means to secure payment for services rendered.

I have given this phase of the matter much thought and have reached the conclusion that it cannot be granted.

The amount charged by Bell for switching service is approximately one-third that which it charges for complete service to rural subscribers on its own system. What is this difference in the rates to cover? Union furnishes and maintains its wires, poles, and telephone instruments and I endeavoured to evaluate what part of the costs of providing Bell service would be attributed to this outside plant compared with the provision of central office equipment and the labour to operate the same, but ascertained only that the latter was predominantly greater.

I have already illustrated the difference in charges incurred by rural line subscribers of Bell vs. those of Union. It shows that the Union customers get comparable service at lower rates. That this is made possible at least in part by the level of the Bell switching charge seems evident.

On weighing up all the considerations I am of the opinion that whatever service Union performs in respect of Bell accounts for long distance service it is compensated for in the switching charge and I am forced to agree with the contention of Bell's Counsel that to grant the payment desired would necessitate reviewing the switching charge and possibly increasing the same. The end result thereof would leave the matter in substantially the position it now is.

Apart from this result, it might be considered unreasonable to increase the switching rate which would undoubtedly be reflected in the charges paid for local service by all Union customers some of whom may never make a long distance call. On the other hand to increase long distance rates of Bell to compensate for the payment to Union would unduly penalize long distance users throughout the system, particularly those who never have occasion to communicate with Union customers.

I believe I am correct in the assumption that the switching rate was not established at its present level having in mind the payment to Union for the toll collection. It apparently was not so considered by Union inasmuch as upon the 1950 increase in switching rates Union secured authority from the Ontario Municipal Board to incorporate the full increase thus made in the rates it charges its own customers, nevertheless I am impressed by what appears to be the favourable level of the switching rates to Union and other Service Station Systems.

When we were considering the proposed change in divisions of joint toll traffic in 1951, *supra*, the matter at issue was the proposed increase in revenue to connecting companies, which in the main were not subject to the jurisdiction of the Board. We clearly stated in our Judgment we are not responsible for the financial welfare of such companies. I must reiterate that statement here.

Some concern was expressed at the inability to negotiate a switching service contract, and that it was a "take it or leave it" matter. Considering the fact that the switching service is essentially and primarily a local exchange matter it seems reasonable that Bell must make such an arrangement with the other system and cannot consider the other system's customers as its own.

It does not undertake to give service to its own customers under negotiated terms, nor can it regulate the calling of either its own customers or those of other systems connected to its switchboard. All of the conditions of providing service are set out in the tariffs; they are open to attack at any time; that we have approved them is no barrier in this respect.

I did consider that we might reasonably require Bell to collect its own toll charges from Union subscribers, but upon reflection I considered that this would amount to an unwarranted intrusion of Bell upon the field of operations of the Union. I cannot help but feel that if Union seeks additional revenue it must secure the same from its own operations.

I would, therefore, dismiss the application, and an Order to that effect will go.

OTTAWA, June 7, 1954.

HUGH WARDROPE.

I concur:

FRANK M. MACPHERSON.

I concur:

H. B. CHASE.

(EXHIBIT NO. 19)

THE BELL TELEPHONE COMPANY OF CANADA

APPENDIX TO JUDGMENT, DATED JUNE 7, 1954

File No. 3839·347

Extracts from General Tariff No. 6716, filed with and approved by The Board of Transport Commissioners for Canada.

General Regulations

PART I, Section 1, Sheet 1

A. *General*

1. Service and equipment are furnished by the Company upon and subject to the provisions of Order No. 81007 of the Board of Transport Commissioners for Canada, dated March 11, 1953, hereinafter quoted, and to all other applicable Tariffs of the Company.

Part I, Section 1, Sheet 2

INTERPRETATION

RULE 1—In these Regulations,

. . . .

(c) "Customer" means a person for whom telephone equipment has been installed or provided and for whom telephone service has been furnished by the Company, upon his application or request, in premises designated by him, and a person who has subscribed for and obtained Service Station System Service from the Company,

(*d*) "Initial service period" means the stipulated minimum period of time for which the Company will furnish the services or equipment applied for, and for which the Company's charges must be paid, whether or not the service be used by the customer for the whole of such period. It commences from the date of establishment of service or of provision of the equipment,

. . . .

GENERAL

RULE 2—(*a*) Telephone service and equipment offered by the Company's Tariffs, when provided by the Company, shall be furnished upon and subject to the terms and conditions contained in

(i) these Regulations,

(ii) all the applicable Tariffs of the Company, and

(iii) the written application (if any) to the extent that it is not inconsistent with these Regulations or said Tariffs,

all of which shall be binding on the Company and its customers.

(*b*) Any change in these Regulations or in the Company's Tariffs shall contemporaneously with the effective date thereof effect the modification of the obligations of the Company and its customers towards each other to conform thereto. A change in rates is applicable on and from its effective date notwithstanding the fact that the customer may have been billed and/or have paid in advance at the previous rate.

RULE 3—The Company does not transmit messages but merely provides the service and equipment which enable those entitled to use them so to do.

Part I, Section 1, Sheet 3

APPLICATION FOR SERVICE

RULE 4—(*a*) Applications for local service (i.e. Exchange and Service Station System Service) and for private line and mobile telephone service or for additional service or equipment in connection with service already established may be made orally or shall be in writing if the Company so requires.

SERVICE AND EQUIPMENT

RULE 7—Except where otherwise stipulated in its Tariffs or by special agreement, the Company shall provide and install all equipment and wiring required to furnish service and shall be and remain the owner thereof, and shall bear the expense of ordinary maintenance and repairs.

Part I, Section 1, Sheet 4

TELEPHONE NUMBERS AND SERVICE ARRANGEMENTS

RULE 15—The Company may, at any time change base rate, exchange and local service areas. Customers affected by such changes have the right to terminate their service if they so desire under Rule 33(*d*).

Part I, Section 1, Sheet 6

PAYMENT OF RATES AND CHARGES

RULE 27—Rates and charges which are quoted on a monthly basis shall be payable by the customer monthly in advance. Charges for message toll and messenger service, coin box service, and local messages in excess of the number provided for under the fixed monthly rate for business message rate service, shall be payable by the customer monthly or upon demand by the Company. . . .

RULE 30—The customer shall be liable to the Company for charges for all calls originating at his telephone regardless of who may originate such calls, and for all calls received at his telephone the charges for which are accepted by any person receiving such calls regardless of who may accept such charges.

. . . .

Part I, Section 1, Sheet 7

TERMINATION OF SERVICE BY CUSTOMER

RULE 33—Service may be terminated prior to the expiration of the initial service period upon payment of all charges due for service which has been furnished, under the following conditions:—

. . . .

(*d*) When the customer's service is affected by a change in the base rate, exchange or local service area, upon reasonable advance notice to the Company.

Part I, Section 1, Sheet 9

LIMITATION OF COMPANY'S LIABILITY

RULE 44—In cases where a circuit or circuits of the Company are connected with a circuit or circuits of a service station system as defined in the Company's Tariffs, the Company shall not be liable for any damages or injuries which may occur through lightning or other currents being carried over its circuits to the circuits of the service station system unless such damage was the result of the failure of the Company to comply with standard construction and maintenance practices.

Part I, Section 2, Sheet 1

Definitions

Connecting Company

A corporation, association, firm or individual operating one or more exchanges, which interchanges traffic with the Company.

Flat Rate Service

A service furnished at a stipulated basic rate which provides for use of such service as required, by those entitled thereto, during the basic period.

Part II, Section 1, Sheet 1

Exchange Service—General

A. *General*

1. An exchange is a basic unit established by the Company for the administration and furnishing of telephone service, and normally includes a city, town or village and adjacent parts. The territory served by an exchange is known as the exchange area or local service area. In some cases two or more exchange areas may be combined to form the local service area.

2. One or more central offices and usually a toll office are located in each exchange area. A central office is an operating unit equipped with switching apparatus by means of which connection is established between primary exchange services of the same exchange. When two or more central offices are located in the same building, the combined unit is known as a wire centre. The toll office, which is usually located in a central office building, is an operating unit established for the furnishing of message toll service, its location being a factor in the determination of rates for such service for the exchange in question as stated in Part III, Section 2 of this Tariff.

In the case of an exchange for which the message toll operating is done in another exchange, a toll office location is designated for the former exchange for the purpose of message toll rate computation, and is that of the central office (or of a specified central office) therein.

3. Exchange service (or local service) is the furnishing of the service and equipment required for telephone communication between primary exchange services of the same exchange or local service area, and between such services and the associated toll office.

B. *Primary Exchange Services*

1. Primary exchange services are the basic services which involve, within the limits of their respective equipment specifications, the furnishings of such facilities as are essential to the use of exchange service.

2. The following primary services are furnished in each exchange except where otherwise stated in this Tariff or the respective Individual Exchange Tariff:

(*a*) Flat rate services, which include the following:

. . . .

(2) Subscriber-owner service, namely, service station (multi-party rural line) service.

C. *Base Rate Areas*

1. A portion of each exchange area is designated as the base rate area. It constitutes the territory in which the development of the higher grades of telephone service is relatively substantial and uniform, thereby permitting greater economies to be realized in the furnishing of such service therein than elsewhere in the exchange area. The location of telephone services with respect to the base rate area determines the application of extra-exchange mileage charges, as stated in F following.

2. The base rate area of each exchange is defined in the respective Individual Exchange Tariff.

Part II, Section 1, Sheet 2—Exchange Service—General

E. *Exchange Rate Groups*

1. Exchanges are classified in rate groups for the application of exchange service rates according to the total number of stations, including those of service station systems, which are served from the exchange or local service area. The rate groups are as follows:

Rate Group	*Stations in Exchange or Local Service Area*
1	1 to 500
2	501 to 1,000
3	1,001 to 2,000
4	2,001 to 5,000
5	5,001 to 10,000
6	10,001 to 20,000
7	20,000 to 50,000
8	50,001 to 100,000
9	100,001 to 250,000
10	Over 250,000

Part II, Section 25, Sheet 1—Service Station System Service

A. *General*

1. The term "service station system" means a corporation, association, municipality, partnership or individual which owns or controls one or more telephone circuits for local exchange service, together with the associated station equipment but without switching devices, and which connects its circuit or circuits with a central office of the Company under the terms of this Tariff for the purpose of securing connection, by means of the Company's switching facilities, between the stations of the service station system as well as between the stations of the service station system and other stations served from the same local service area or reached over other facilities of the Company. The provision of such connection by the Company constitutes the service furnished by the Company to the service station system as referred to in this Tariff.

2. Circuits of service station systems are to be connected only with the exchange specified in the application. Stations of service station systems must be located outside the base rate area of the exchange by which they are served. The Company reserves the right to decline to furnish service to stations of service station systems which are located in territory in which the Company furnishes exchange service to its own customers.

3. The Company provides and maintains the portion of the necessary circuit or circuits between its central office and a point designated by the Company at or beyond the boundary of the base rate area. The service station system is required to provide and maintain the portion of such circuit or circuits beyond that provided by the Company. The Company may lease circuits to service station systems at a monthly rental for each circuit of 40¢ per quarter mile or fraction thereof, route measurement; circuits so leased are maintained by the Company.

4. The service station system is required to provide and maintain the necessary station equipment, local batteries and protective equipment, of a type approved by the Company and suitable for use in the exchange by which the service station systems is served. The Company may lease station equipment of wall, desk or hand type, including protective equipment but excluding local batteries, to service station systems at a monthly rate of 25¢ for each

station. Station equipment so leased by the Company is to be installed and maintained by the service station system, provided that such equipment is repaired or replaced by the Company without additional charge upon delivery thereof at the Company's local office.

5. Pole lines, circuits and station apparatus of service station systems are to be constructed, installed, maintained and used in accordance with the standards and regulations of the Company.

6. Service station systems are required to give the Company reasonable advance notice of the connection of any stations to or the disconnection of any stations from any of the circuits of such systems.

7. Service station systems, upon request by the Company, are to furnish such information as the Company may reasonably require for the preparation of directories, for determining that the standards and regulations of the Company are complied with and for the compilation of engineering and other data.

8. The liability of the Company or the service station system to each other for any damages or injuries which may occur through lightning or other currents being carried over either system to the other shall be as follows:

(*a*) The liability of the Company to the service station system is specified in Rule 44 of Order No. 81007 of the Board of Transport Commissioners for Canada in Part I, Section 1 of this Tariff.

(*b*) The service station system shall be liable to the Company only if such damages or injuries result from the failure of such system to comply with any of the standards or tariff regulations of the Company.

Part II, Section 25, Sheet 2

B. *Contracts*

1. Application for the furnishing of service and for the lease of circuits or station equipment by the Company to a service station system is to be made on the Company's application form for such systems, which becomes a contract between the Company and the service station system upon the furnishing of such service or the provision of such station equipment or circuits by the Company.

2. Application for the furnishing of service and for the lease of circuits or station equipment by the Company to a service station system other than as originally stipulated in its contract with the Company may be made orally or in writing. Such service, circuits or station equipment, upon the furnishing or provision thereof by the Company, are deemed to be covered by the original contract.

3. All business between the service station system and the Company in behalf of the service station system is to be transacted by a person or persons duly authorized by such system to act in its behalf.

Part II, Section 25, Sheet 2

C. *Initial Contract Period*

1. The initial contract period is one month in the case of the following:

(*a*) The furnishing of service in connection with each circuit of a service station system.

(*b*) The connection of each main station to a circuit of a service station system.

(*c*) The leasing of each station by the Company to a service station system.

2. The initial contract period is one year for each circuit leased by the Company to a service station system.

3. The Company may require a longer initial contract period than stipulated in the preceding paragraphs when in its opinion such longer period is necessary.

D. *Termination of Contracts*

1. A contract may be terminated by either the Company or the service station systems after the expiration of the contract periods dated in C preceding, upon reasonable advance notice to the other party to the contract and upon payment of all charges due for service which has been furnished or facilities which have been leased by such other party.

2. A contract may be terminated by a service station system prior to the expiration of the contract periods stated in subsection C upon reasonable advance notice in writing to the Company and upon payment of termination charges equal to the service charges or rentals for the unexpired portions of the respective contract periods, in addition to all charges due for service which has been furnished or facilities which have been leased by the Company.

3. Notwithstanding the foregoing regulations, the Company may terminate a contract with a service station system at any time by simple notice in writing upon the failure of such system to comply with the standards or tariff regulations of the Company. In the event of such termination of contract by the Company, all charges due for service which has been furnished or facilities which have been leased by the Company to the service station system shall become payable forthwith.

Part II, Section 25, Sheet 3

E. *Rates*

1. Rates for the furnishing of service to service station systems apply according to the rate group classification of the serving exchange as specified in Part II, Section 1 of this Tariff. They apply for each main station of the service station system, except that the minimum charge applicable in connection with each circuit of the service station system is that for six main stations. Such rates provide for one listing for each service station system customer in the alphabetical list of the directory for the exchange by which such customer is served, and for one copy of each issue of such directory for each station of the service station system served by that exchange. Monthly rates are as follows:

Rate Group	*Monthly Rate*
1	$.85
2	.90
3	.95
4	1.00
5	1.05
6	1.10
7	1.15
8 to 10	Not quoted

F. *Payment for Service*

1. Charges for exchange service, equipment and facilities are payable as specified in Rules 27 to 31, inclusive of Order No. 81007 of the Board of Transport Commissioners for Canada in Part I, Section 1 of this Tariff.

2. The service station system is responsible for the payment of all charges for service furnished by the Company.

Part III, Section 1, Sheet 1—Message Toll Service—General

A. *Definition*

1. Message toll service is the furnishing of facilities for telephone communication between local service areas or other toll points, those served by the Company being as established in the Company's Tariffs, in addition to those facilities already supplied in connection with exchange service, in accordance with the regulations and charges specified in this Tariff.

D. *Reversal of Charges*

1. Charges for message toll and messenger service may be reversed, that is, billed against the called station, upon acceptance thereof at such station, subject to the regulations in the other Sections of Part III of this Tariff.

Part III, Section 2 Sheet 3—Two-Point Service

G. *Method of Applying Rates*

1. In general, each exchange and each toll station is designated as a rate centre, the same message toll rates applying to all stations served from an exchange. The location of each rate centre for message toll rate purposes is that of the toll office or toll station. Message toll rates are based upon the airline distance between rate centres, known as the rate distance, except as stated in H following.

2. For the purpose of determining rate distances over 40 miles, Canada (except Newfoundland) and the United States are divided into blocks and sections. The blocks are 7 miles square and the sections, containing 25 blocks, are 35 miles square. Each horizontal row of sections is lettered and each vertical row numbered. Each of the blocks in a section is designated by a small letter. The combination of a horizontal and vertical designation and a small letter thus indicates a specific block in a specific section. Each rate centre in Ontario and Quebec is listed, with the designation of the block in which it is located, in the Toll Rate and Route Guide, C.T.C. No. 6668. Each rate centre in Provinces other than Ontario, Quebec and Newfoundland and in Yukon, the United States, Cuba and Mexico is listed in the Toll Rate and Route Guide of the American Telephone and Telegraph Company Long Lines Department, except that rate centres in British Columbia are listed in the Toll Rate and Route Guide of the Trans-Canada Telephone System. In the case of a locality which is served from a nearby rate centre, the name and block designation of such rate centre are listed in addition to the name of the locality.

3. The rate distance between rate centres which are more than 40 miles apart by airline measurement is the airline distance between the centres of the blocks in which the rate centres are located, except as stated in the following paragraph.

4. The rate distance between rate centres located in sections of which the centres are 350 or more miles apart is the airline distance between the centres of such sections.

5. Rate distances between the centres of blocks or sections are determined from block and section mileage charts. A master set of such charts is contained in a book, arranged in two parts, entitled the "Interexchange Mileage and Rate Guide" and bearing the tariff designation C.T.C. No. 6743. The rates applicable to the rate distances thus obtained are shown in K, L and M following.

6. The rate distance between rate centres which are 40 miles or less apart by airline measurement is the airline distance between such rate centres. When the rate based upon such measurement differs from that based upon the distance between the centres of the respective blocks the former applies. These exceptions to block rates are listed for each rate centre on a First Reference List, C.T.C. No. 6652. Such First Reference Lists quote, in addition to exceptions to block rates, any special rates which are in effect between the related rate centre and other points.

ORDER No. 83905

In the matter of the application of the Union Telephone Company, Limited, under section 380 of the Railway Act, for telephone connection with The Bell Telephone Company of Canada, and for compensation respecting long distance service:

File No. 3839·347

TUESDAY, the 8th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa on the 16th, 17th, 18th and 19th of March, 1954, in the presence of Counsel for The Bell Telephone Company of Canada and for the Union Telephone Company, Limited—

It is ordered that the application be, and it is hereby, dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner.

Application of Canada and Dominion Sugar Company Limited for an Interpretation of Tariff Provisions relating to top Wharfage Charges at Fort William and Port Arthur, Ont.

File 42336

RULING

BY THE BOARD:

By written submissions the applicant, Canada and Dominion Sugar Company Limited, seeks our ruling as to the application of charges for top wharfage at Fort William and Port Arthur, Ont., on traffic brought thereto by water carriers, placed in storage warehouses of the Canadian National Railways, and subsequently withdrawn from storages for delivery locally at the Lakehead.

The application concerns provisions of Canadian National Railways tariff C.T.C. W. 2061, and in particular paragraph 3(*d*) of item 376 which, prior to June 1, 1952, read as follows:

> "Freight removed from railway dock warehouses for local delivery at Fort William, Port Arthur or West Fort William, Ont., will be charged the difference, if any, between the proportional and local rates from point of shipment to storage point, plus the wharfage and storage charges named in items Nos. 375 and 410 of this tariff . . . and switching charges as provided in Tariff . . ."

Effective June 1, 1952, in compliance with our Order No. 78869 (in re complaint of *Western Grocers Limited, et al.*, 69 C.R.T.C. 56) the above stated tariff item was amended to read:

> "Freight removed from railway dock warehouses for local delivery at Fort William, Port Arthur or West Fort William, Ont., will be charged local rates from point of shipment to storage point, plus storage charges named in Item No. 375 of this tariff . . . and switching charges as provided in Tariff . . ."

The Traffic involved in the present application was shipped from point of origin, and placed in storage at the Lakehead, prior to June 1, 1952, but was withdrawn from storage and delivered locally at the Lakehead on or after June 1, 1952.

The railways at the Lakehead provide storage in their dock warehouses for freight received from lake vessels intended for reshipment by rail to points other than the Lakehead. If reshipment takes place in this manner no charges are assessed for top wharfage at the Lakehead. On traffic similarly received from lake vessels destined to the lakehead cities, a charge for top wharfage is imposed by the railway.

Following our decision in the "Western Grocers" case, *supra*, top wharfage charges on traffic destined to lakehead cities for local delivery and brought thereto by water carriers are no longer imposed on the traffic. Such charges were held to be the responsibility of the water carrier if such carrier failed to furnish adequate and suitable dock facilities for the delivery of local traffic.

The submissions now before us indicate that upon withdrawal of the traffic from storage, for purposes of effecting local delivery, top wharfage charges were assessed on the traffic which entered storage before June 1, 1952. The applicant asserts that this charge is in error and that:

> "On shipments for furtherance beyond the storage point, the rate applicable is the local carload rate in effect from the storage point to destination on the date shipment is made from the storage point. This applies whether the rate increased or decreased after the delivery date into storage."

thereby maintaining that the controlling date as to the charge for top wharfage should be the date when the traffic was removed from storage.

Top Wharfage charges are essentially "toll" charges. They denote the use of wharf facilities for the convenience of the traffic in unloading from ship to shore.

At the time the traffic was placed in storage; namely, prior to June 1, 1952; the carriers' tariffs imposed such charges in addition to line haul rates when the traffic was for local delivery at the Lakehead. Until such time as the traffic was subsequently withdrawn from storage for local delivery the tariff provisions clearly contemplated a furtherance movement by rail which, if it had occurred, would not entail any charge for top wharfage.

Upon the determination of the shipper or consignee to remove the goods from storage and deliver them locally in the Lakehead cities, the tariff provided, until June 1, 1952, that the entire rate transaction would be converted to that applicable to local delivery shipment.

Part of the total rate for local delivery is the tariff for top wharfage. The terms of carriage as stated in the Bill of Lading rander goods "subject to the . . . tariffs in effect on the date of issue" of the Bill of Lading.

In the absence of any tariff provision to the contrary we are compelled to conclude and rule that shipments brought to the Lakehead by water and placed in railway storage prior to June 1, 1952, although withdrawn from storage and delivered locally at the lakehead on or after June 1, 1952, are subject to the tariffs in effect on the date of original shipment from point of origin. Consequently we must and do rule that the application to set aside top wharfage charges cannot be accorded. Inasmuch as this ruling is an interpretation of the pertinent tariff no order is necessary. The parties to the application have signified they desire our ruling to be made on the written submissions and have agreed to be bound thereby.

OTTAWA, June 16, 1954.

HUGH WARDROPE,
A. SYLVESTRE,
FRANK M. MACPHERSON,
H. B. CHASE,
O. A. MATTHEWS.

GENERAL ORDER No. 797

In the matter of the application of Canadian Freight Association for approval of a modification of the forms of bill of lading approved by General Order No. 41, dated July 15, 1909:

File No. 3678

WEDNESDAY, the 9th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that General Order No. 41, dated July 15, 1909, be, and it is hereby, amended by deleting paragraph numbered 1 thereof and substituting the following:

"1. *It is ordered* that the two forms of bill of lading, for use in Canada, namely, that for consignments 'to order', and that for so termed 'straight' consignments, attached hereto and marked 'A' and 'B', with the deletion therefrom of the words and figures 'The Rate of Freight from..... *to* is in Cents per 100 Lbs.' and the references to classes immediately following the said words and figures, be, and they are hereby, approved".

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 799

In the matter of the revision of the regulations respecting the equipment of engines with headlights:

File No. 6511·5

MONDAY, the 21st day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the following regulations be, and they are hereby, approved:

Road Engines

1. Every railway company, subject to the jurisdiction of the Board, is required to equip each engine used in road service with headlights, having sufficient illuminating capacity to enable a person in the cab of each engine, who possesses the approved visual acuity of enginemen, to see in a clear atmosphere a dark object the size of a man standing erect at a distance of 800 feet or more ahead and in front of the engine. (See Note I).

2. Each engine used in road service which is regularly required to run backwards for any portion of its trip, except to pick up a detached portion of its train or in making a terminal movement, shall be equipped with a headlight at the rear which will meet the requirements set forth in paragraph 1.

Engines in Yard Service

3. Each engine used in yard service shall be equipped with two headlights, one located at the front and one located at the rear of the engine. Each headlight shall have sufficient illuminating capacity to enable a person in the cab of such engine who possesses the approved visual acuity of enginemen, to see a dark object the size of a man standing erect at a distance of 300 feet ahead and in front of the headlight.

Spare Parts

4. Each engine shall (except those equipped with twin sealed beam headlights), be provided with a proper stowage containing a supply of lamps and other necessary spare parts. This equipment should be checked frequently and replenished, when necessary.

Dimming Equipment

5. The headlights of engines used in road service shall be provided with a device whereby the light can be diminished when required. Dimming devices shall be located and installed having regard to the safety and convenience of enginemen.

Maintenance

6. All headlights, their associated equipment and electrical circuits shall be maintained in good condition for service.

NOTE I: In consideration of the practical limits of present day headlight equipment, a beam range of 800 feet represents the minimum acceptable to the Board. However, increased range is desirable and railway companies are expected to adopt headlights of greater range as they become available.

And it is further ordered that General Order No. 522, dated November 9, 1933, be, and it is hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84044

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 62:

File No. 40994·47

MONDAY, the 28th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 62 on file with the Board under file No. 40994·47, be, and it is hereby, approved; and that the date as from which the said Supplement No. 5 shall be deemed to have become operative is hereby fixed as May 20, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84081

In the matter of the application of Dyson's (Ontario) Limited and Gattuso Corporation Limited, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

MONDAY, the 5th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of The Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge Tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for the following companies: Dyson's (Ontario) Limited and Gattuso Corporation Limited the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84098

In the matter of the application of the City of Medicine Hat, in the Province of Alberta, for an Order authorizing it to construct a pedestrian subway under the right of way of the Canadian Pacific Railway Company from North Railway Street to South Railway Street between Second and Third Streets, in the City of Medicine Hat:

Case No. 2488

THURSDAY, the 8th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at Ottawa on June 22, 1953, in the presence of Counsel for the City of Medicine Hat and Canadian Pacific Railway Company and upon consideration of the submissions on file—

It is ordered

1. That Order No. 6393, dated February 15, 1909, be, and it is hereby amended

(*a*) by deleting the heading thereof and substituting the following therefor:

"IN THE MATTER OF the application of the City of Medicine Hat, in the Province of Alberta, for an Order authorizing it to construct a pedestrian subway under the right of way of the Canadian Pacific Railway Company from North Railway Street to South Railway Street between Second and Third Streets, in the City of Medicine Hat:"

(*b*) by deleting paragraph numbered 4 thereof and substituting the following therefor:

"4. The said City shall bear all the cost of construction and maintenance of the said pedestrian subway, but the railway company shall not be entitled to compensation by reason of the construction of the said subway below the right of way and station grounds."

2. That the said Order No. 6393 as herein amended be, and it is hereby confirmed.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84138

In the matter of the application of the Cayuga Steamship Company, under section 18 of the Transport Act, for approval of Standard Passenger Tariff C.T.C. No. P.1:

File No. 42082·38

WEDNESDAY, the 14th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Passenger Tariff C.T.C. No. P.1 of Cayuga Steamship Company, on file with the Board under file No. 42082·38, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84139

In the matter of the application of the Cayuga Steamship Company, under section 18 of the Transport Act, for approval of Standard Freight Tariff C.T.C. No. F.1:

File No. 42082·38

WEDNESDAY, the 14th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Freight Tariff C.T.C. No. F.1, on file with the Board under file No. 42082·38, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84033 June 25—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

84034 June 25—Removing slow order at C.N.R. crossing of Highways Nos. 3 and 4, 2·61 miles west of the City of St. Thomas, Ont., mileage 2·61 Chatham Subdivision.

84035 June 25—Approving Traffic Agreement and revised Appendix between the Bell Telephone Company and La Compagnie de Téléphone de Richelieu.

84036 June 25—Authorizing the construction of an overhead bridge, to replace the existing overhead bridge which was authorized to be constructed by Order No. 16911, dated February 28, 1912, mileage 56·63 Oshawa Subdivision, C.P.R., Ontario.

84037 June 25—Approving the operation of C.P.R. engines, cars and trains over the private siding serving United Farmers of Alberta Co-Operative, Calgary, Alberta.

84038 June 25—Authorizing the construction and maintenance of a private siding across lane in Manchester Industrial Area, Calgary, Alberta, to serve Stanley Brock Limited.

84039 June 25—Authorizing the construction and maintenance of a private siding across lane in Manchester Industrial Area, Calgary, Alberta, to serve Kralinator Limited.

84040 June 25—Authorizing the construction and maintenance of a private siding across lane in Manchester Industrial Area, Calgary, Alberta, to serve Canadian Industries Limited.

84041 June 25—Authorizing the construction and maintenance of a private siding along 2nd Street, S.E., in Manchester Industrial Area, Calgary, Alberta, to serve Canadian Western Natural Gas Company Limited.

84042 June 25—Authorizing the construction and maintenance of a private siding along 2nd Street, S.E., in Manchester Industrial Area, Calgary, Alberta, near mileage 1·91 Macleod Subdivision, to serve Crane Limited.

84043 June 28—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84044 June 28—Approving Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 62.

84045 June 28—Approving proposed location of storage tank, etc., of Sykes Gas Company, near the C.P.R. tracks at Swift Current, Saskatchewan.

84046 June 28—Approving proposed location of storage tanks, etc., of C.N.R., near their tracks at Wainwright, Alberta.

84047 June 28—Approving proposed location of storage tanks, etc., of C.N.R., for the handling and storage of inflammable liquids at Watrous, Sask.

84048 June 28—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Big River Subdivision, Saskatchewan.

84049 June 28—Approving proposed location of pipe lines of the Standard Oil Company of British Columbia, Limited, near the C.P.R. tracks at Vancouver, British Columbia.

84050 June 28—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their St. Brieux Subdivision, Saskatchewan.

84051 June 28—Approving proposed location of storage tanks, etc., of C.N.R., near their tracks at Rivers, Manitoba.

84052 June 29—Approving Supplement to Service Station Contract, between the Bell Telephone Company and The Upper Lachute Telephone Association.

84053 June 29—Removing slow order at Esquimalt and Nanaimo Railway and Cumberland Road crossing, being the first public crossing south of the station at Royston, British Columbia.

84054 June 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Arborg, Manitoba.

84055 June 29—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and La Corporation de Téléphone de Québec (Eastern Division).

84056 June 29—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and La Corporation de Téléphone de Québec (Western Division).

84057 June 29—Approving operation of C.P.R.'s engines, cars and trains over the private siding serving Denault Limitée, Sherbrooke, Quebec.

84058 June 29—Authorizing the Alberta Department of Highways to widen Highway No. 16 where it crosses the right-of-way of the Trans Mountain Oil Pipe Line Company between the N.W. quarter of Section 32-52-27-W4M and the S.W. quarter of Section 5-52-27-W4M, in the Province of Alberta.

84059 June 29—Authorizing the C.P.R. to use and operate over the Atwater Tunnel, Montreal, Quebec.

84060 June 30—Recommending to Governor in Council for sanctioning By-law "BB" (1954). (Algoma Central & Hudson Bay Rly. Co.)

84061 June 30—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

84062 June 30—Removing slow order at crossing of the C.P.R. at Victoria Avenue, being the first public crossing south of the station in the City of Red Deer, Alberta, mileage 92·9 Red Deer Subdivision.

84063 June 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Cochrane, Alberta.

84064 June 30—Approving proposed location of storage tanks, etc., of the Canadian National Railways, at Edson, Alberta.

84065 June 30—Authorizing the C.N.R. to use and operate the bridge over Boulder Creek, British Columbia, at mileage 82·2 Clearwater Subdivision.

84066 July 2—Authorizing the C.N.R. to relocate the two north gates at the crossing of their railway and Thames Street, Ingersoll, Ontario.

84067 July 2—Approving the operation of the C.P.R. and the C.N.R. engines, cars and trains over the siding Associated Quarries & Construction Limited, Toronto, Ontario.

84068 July 2—Approving Plan No. S-4-292-2, dated May 12, 1954, in lieu of Plan No. X-4-292-2, dated October 22, 1953.

84069 July 2—Authorizing the C.P.R. to construct and maintain a private siding across Minerva Street, Vulcan, Alberta, to serve McColl-Frontenac Oil Company Limited.

84070 July 2—Removing slow order at C.P.R. crossing of Sheppard Ave., about two and one-quarter miles north of the station at Weston, Ontario.

84071 July 2—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84072 July 2—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of their railways at Alix, Alberta.

84073 July 2—Removing slow order at C.N.R. crossing, being the first public crossing east of the station at Lac Aux Sables, Quebec.

84074 July 2—Approving proposed protection to be installed at crossing of the New York Central Railroad Company and King Street and Plymouth Road, Welland, Ontario.

84075 July 2—Removing slow order at C.N.R. crossing of Highway No. 26, north of the station at Collingwood, Ontario.

84076 July 5—Authorizing the C.N.R. to construct a public crossing across their right-of-way in the Province of British Columbia, at mileage 76·28 Albreda Subdivision.

84077 July 5—Extending the time within which the C.N.R. were required to install protection at crossing of Old Belleville Road, being west of the station at Napanee, Ontario.

84078 July 5—Approving proposed location of storage tank, etc., of the Midland and Pacific Grain Corporation Limited, near the C.P.R. tracks at Okotoks, Alberta.

84079 July 5—Approving proposed location of storage tank, etc., of C.N.R., at Drumheller, Alberta.

84080 July 5—In the matter of the application of the C.N.R. and C.P.R. for approval of the restricted clearances at the siding serving the Ford Motor Co., near Oakville, Ontario.

84081 July 5—Approving fixed charges of Dyson's (Ontario) Limited and Gattuso Corporation Limited to be the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) 62.

84082 July 6—Authorizing the C.P.R. to install automatic block signals between Brooks and Gleichen, Alberta, mileage 60 to mileage 130 Brooks Subdivision.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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GENERAL ORDER No. 798

In the matter of Uniform Rules governing the determination of visual acuity, colour perception, and hearing of railway employees:

File No. 1750·17

THURSDAY, the 17th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the railway companies subject to the jurisdiction of the Board adopt and put into force the following rules:

UNIFORM RULES GOVERNING THE DETERMINATION OF VISUAL ACUITY, COLOUR PERCEPTION, AND HEARING OF RAILWAY EMPLOYEES

1. Each person selected to make examinations must first pass the examination under an oculist or optometrist designated by the company, such oculist or optometrist then to instruct candidate on the use of the instruments requisite for such examination and certify to candidate's qualifications as an examiner.

2. Each examiner shall be provided with:

(*a*) a set of Snellens test types, with at least three cards of each size of letters shown in different combinations (a single line on each card) for testing acuteness of vision;

(*b*) an Association of American Railroads standard reading card for testing near vision;

92931—1

(*c*) a Holmgren or Thompson colour-selection test; Pseudo-Isochromatic Chart, and instructions for use of same;

(*d*) a "Williams" lantern, or one similarly constructed, and instructions for use of same;

(*e*) a card or shade for testing each eye separately;

(*f*) a trial frame, with one pair of plus two diopter lenses, one pair of plus one diopter lenses and one pair of plane lenses and one opaque disc; and

(*g*) examination forms and certificates.

3. Examinations shall be conducted in a well lighted room or car in which a distance of twenty feet can be measured from test type, or face of lantern, to candidate. Shades or curtains shall be provided in order to darken room or car for lantern test.

4. The test type should be in good light, the bottom of the card about on a level with the eye. Place the candidate twenty feet from the card, and ask him to read the type with both eyes open, then cover one of his eyes with a card or shade held firmly against the nose, taking care not to let it press against the eyeball, and instruct him to read with the other eye such type as may be indicated. Each eye shall be tested separately.

5.(*a*) Examiners are reminded that the normal-eyed should read the twenty-foot (or 6 metre) letters at 20 feet, in which case the visual power should be expressed by the fraction 20-20. Should a candidate be unable to read the twenty-foot letters at 20 feet, but be able to read the 30-foot letters, the result should be indicated by the fraction 20-30. If he can only read the forty-foot letters record should be 20-40 etc.

(*b*) Candidate must be able to read the test print in paragraph 2 of the standard reading card at a distance of from fourteen to eighteen inches to pass the near vision test. Candidates, except applicants under classes A, B and C, may use glasses for this test. Further tests should be made by having the candidate read written train orders.

6. (*a*) In testing vision, colour perception, and hearing only those concerned in such test, other than the examiner and candidate shall be permitted to be present.

(*b*) Where the word "applicant" is used in these rules it applies to a person who is subject to the ENTRANCE TO SERVICE requirements.

(*c*) Where the word "candidate" is used it applies to anyone taking examination including those referred to as "applicants".

7. (*a*) The result of each examination must be shown on a prescribed form, a record to be preserved for reference by the examiner, and copies as required to be forwarded to officers concerned for inspection, record and file.

(*b*) Officers concerned must keep proper check, to ensure re-examination of all employees when due, must see that all employees who should be examined by an oculist or optometrist under the rules are required to take such examinations promptly, and that glasses provided are approved by those designated under clause 13.

(*c*) Examiners will, upon request of candidate, issue to each person who passes a satisfactory examination, a certificate to that effect, and will if desired furnish employees who fail to pass, a written statement of their rating and cause of failure.

(*d*) Local officers must report to the (each railway to fill in officer to whom report shall be made) all cases wherein an employee appears to be disqualified, giving full information as to result of examination.

8. All applicants for entrance to service under the standards specified (except for classes E and F) must take such examination without the use of glasses for distant vision.

9. When the distant vision of an employee can be improved appreciably by the aid of glasses he must wear them while on duty.

10. An employee who requires glasses to bring distant vision up to standard specified must wear them while on duty and must carry an extra pair, which will bring his vision up to standard specified, and will be examined with each pair.

11. All employees, while on duty, excepting those indoors, who are required to wear glasses for distant vision must use the rimmed spectacle or goggle form, and those indoors should preferably use the rimmed spectacle form. This paragraph applies to new glasses and replacements.

12. Automobile goggles, fitted with glass which will not injuriously affect either acuteness of vision or colour perception, may be used by employees in engine or freight train service for the protection of the eyes.

The use of authorized safety spectacles or goggles which will afford protection against flying particles, glare, or both, and which will not affect acuteness of vision or colour perception is recommended.

13. Glasses required to bring either near or distant vision up to standards specified must be approved by the oculist, optometrist, or examiner designated by the company.

14. Applicants having a squint, or who are cross-eyed, or otherwise not normal-eyed, shall not be accepted. Examiners who suspect a case of double vision should use some simple test to determine its presence.

15. An employee who fails to pass acuity standard specified, will not be disqualified from service without an examination by an oculist designated by the company. An employee failing to pass indoor tests for acuteness of vision, shall, upon request, be examined by a committee of two, one of whom will be appointed by the General Manager or other designated officer of the Company and the other by the General Chairman concerned. This committee will give due consideration to border-line cases respecting visual acuity and recommend the service, if available, to which the employee may be assigned.

16. When promotion standard is not specified, an employee applying for transfer from one kind of service to another, or being promoted, must pass entrance examinations of class he desires to enter.

EXCEPTIONS

(*a*) Those who have been injured in service, or who have been in continuous service for at least two years, may be transferred to positions of switch tenders and occupations under Class F;

(*b*) those who have been transferred from one position to another under Class E, upon passing the respective re-examination standards.

17. Employees who revert from class D, to class C by direction, or consent of the Company, will be re-examined under class D standard.

18. Applicants for entrance to service in classes A and C will undergo additional test to ascertain if far-sighted to the extent of two diopters. Examiners will use combinations in trial frames representing plane and convex lenses, varying the tests so that the candidate's former experience or knowledge obtained from others may be valueless. If an applicant reads without difficulty the twenty-foot letters at 20 feet through convex lenses of 2D he will not be considered satisfactory.

19. Examiner shall examine the colour perception of each eye separately using such equipment and standards of tests as are approved by the Board. These shall be made by a lantern designed for this purpose, by the Holmgren or Thompson Worsteds or the Pseudo-Isochromatic method. The latter shall consist of 18 plates in book form as in effect at date of this Order. Defective red-green vision shall be indicated when incorrect responses are given to five or more plates. Candidates upon re-examination or for promotion will not be disqualified if they pass any two of these tests.

20. (*a*) An applicant who has defective colour perception shall not be accepted into service in any of the classes specified in the Standards of Visual Acuity.

(*b*) An employee who has defective colour perception shall not be retained in any of the classes specified in the Standards of Visual Acuity except in positions to be designated by the company where he will not be required to use or determine the colour of signals.

21. No employees shall be disqualified from service by reason of defective colour sense without an examination by an oculist designated by the Company.

22. In examination of hearing (which shall be with human voice) each ear shall be tested separately, and the candidate should not see the movement of the examiner's lips.

23. An applicant for entrance to service must be able to hear and repeat an ordinary conversation, or names and numbers, spoken in a conversational tone, at a distance of 20 feet, in which case the hearing shall be expressed by the fraction 20-20. When conversation can be heard at only ten feet, the hearing should be expressed by the fraction 10-20. If indicated a test of hearing by the use of the audiometer may be carried out.

24. Employees will not be retained in any of the classes specified if hearing is less than 15-20 in one ear and 5-20 in the other, or less than 10-20 in each ear, except in positions to be designated by the company, where the defect will not prevent the proper and safe performance of their duties.

25. Employees included in the Standards of Visual Acuity and Hearing must be re-examined as follows:

(*a*) All classes as nearly as possible within two years after the last previous examination;

(*b*) Class A employees who have less than 20-40 vision in either eye with glasses;
Class C employees who have less than 20-50 vision in either eye with glasses, and
All employees who have less than 20-70 vision in either eye with glasses,
must be examined annually.
Any employee may be re-examined at such periods as may be designated by the Company's Chief Medical Officer or Chief Visual Examiner.

(*c*) After any accident in which they are concerned, which may have been caused by defective vision, colour sense or hearing;

(*d*) After any serious accident or illness, or severe inflammation of the eye or eyelid;

(*e*) Before promotion. This does not mean that a freight conductor should be examined previous to his appointment as passenger conductor, or an engineman in freight service previous to appointment in passenger

service, but that freight brakemen shall be examined before being promoted to freight conductor, and firemen being promoted to enginemen.

(*f*) All classes to be re-examined for hearing as nearly as possible within two years' time after the last previous examination, or more frequently if deemed necessary by the Company's Chief Medical Officer or Chief Visual Examiner.

26. (*a*) Employees in classes A and B who fail to qualify after having been examined by a company oculist as provided shall, upon request, be given an outside or field test, using standard operating signals as may be agreed by the committee provided for in these rules.

(*b*) In making the tests candidates shall approach the signals from a point where they are unable to see them, and not be credited with being able to read signals unless they can promptly call changes as made in position of arms and colour of lights.

(*c*) The tests with and without glasses shall be made at distances varying from 5,000 to 200 feet. These tests should be with each eye separately and also with combined vision.

(*d*) The Committee shall record the different distances at which the employee being examined can promptly see the signals, and shall forward this information, together with their recommendations as to the service to which he may be assigned, to the General Superintendent.

STANDARDS OF VISUAL ACUITY

Class A

Enginemen, Motormen, Firemen, Motormen's Helpers, Road Service.

ENTRANCE TO SERVICE

Not less than 20-20 in each eye tested separately without glasses. Must not accept a plus 2D lens, nor use glasses for near vision.

PROMOTION

20-30 combined, with or without glasses, provided there is 20-30 in one eye and not less than 20-40 in the other eye, with or without glasses.

RE-EXAMINATION

20-30 combined, with or without glasses, provided there is 20-30 in one eye and not less than 20-50 in the other eye, with or without glasses.

Class B

Enginemen, Motormen, Firemen, Outside Hostlers, Motormen's Helpers, Yard or other service designated by the Company.

NOTE: (The term "outside Hostlers" applies to hostlers handling engines between passenger stations and roundhouses or yards or on main tracks).

ENTRANCE TO SERVICE

Same standard as for Class A.

PROMOTION

Same standard as for Class A.

RE-EXAMINATION

20-30 in one eye, regardless of vision in the other, with or without glasses.

Class C

Brakemen in passenger, freight, or yard service, Yard Helpers, Switch Tenders.

ENTRANCE TO SERVICE

Not less than 20-20 in each eye tested separately without glasses. Must not accept a plus 2D lens, nor use glasses for near vision.

PROMOTION

20-30 combined, with or without glasses, provided there is 20-30 in one eye and not less than 20-40 in the other, with or without glasses. (From Class C to Class D).

RE-EXAMINATION

20-30 combined, with or without glasses, provided there is 20-30 in one eye and not less than 20-50 in the other, with or without glasses; or 20-20 in one eye, regardless of vision in the other, with or without glasses.

Class D

Conductors in passenger, freight or yard service, Yardmasters, Yard Foremen, Train Baggagemen.

ENTRANCE TO SERVICE

Not less than 20-30 in each eye without glasses.

RE-EXAMINATION

Not less than 20-40 in one eye and not less than 20-50 in the other eye, with or without glasses; or 20-30 in one eye and not less than 20-70 in the other eye, with or without glasses, or 20-20 in one eye, regardless of vision in the other, with or without glasses.

Class E

Train Despatchers whose duties require the necessary standard of Visual Acuity and Color Perception, Station Agents and Telegraph and Telephone Operators concerned with the movement of trains, Signal Foremen and Maintainers, Signalmen, Bridge and Track Foremen, Drawbridge Tenders, Car Inspectors.

ENTRANCE TO SERVICE

Not less than 20-30 in one eye and not less than 20-40 in the other eye, with or without glasses.

RE-EXAMINATION

Not less than 20-40 in one eye and not less than 20-70 in the other eye, with or without glasses; or 20-30 in one eye, regardless of vision in the other eye, with or without glasses.

Class F

Crossing Flagmen, Watchmen, Gatemen.

ENTRANCE TO SERVICE

Not less than 20-40 in each eye with or without glasses.

RE-EXAMINATION

Not less than 20-50 in one eye and not less than 20-70 in the other with or without glasses; or 20-30 in one eye regardless of vision in the other with or without glasses.

Class G

Employees operating snow plow, spreader, or other railway maintenance equipment moving on track, coupled ahead of locomotive, shall be examined under rules and standard specified for re-examination Class A.

27. The provisions of this Order shall apply to all American railways operating in Canada in so far as movements lying wholly within the jurisdiction of the Board are concerned. In the case of international movements the company may use standards which are higher and which are in use on American railways.

It is further ordered that the following General Orders be, and they are hereby, rescinded: No. 743, dated March 1, 1950, and No. 744, dated June 16, 1950.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER No. 84152

In the matter of filing of tariffs by The Bell Telephone Company of Canada:

Case No. 955·161

THURSDAY, the 15th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the undermentioned revisions to tariffs filed to become effective on the dates set out, be, and they are hereby, approved:

Tariff C.T.C. No.	*Date Taking Effect*	*Description*
6652	July 21, 1954	16th Revised Sheet 28
		25th Revised Sheet 54
		12th Revised Sheet 71
		15th Revised Sheet 217
		14th Revised Sheet 270
		19th Revised Sheet 282
		21st Revised Sheet 409
		10th Revised Sheet 419a
		15th Revised Sheet 550
		14th Revised Sheet 652a
		14th Revised Sheet 657a
		17th Revised Sheet 659
		15th Revised Sheet 661
		19th Revised Sheet 668
		19th Revised Sheet 671
		11th Revised Sheet 677a
		19th Revised Sheet 681
		20th Revised Sheet 689
		23rd Revised Sheet 693
		28th Revised Sheet 715
		13th Revised Sheet 735a
		26th Revised Sheet 739
		18th Revised Sheet 746
		13th Revised Sheet 755
		19th Revised Sheet 786
		17th Revised Sheet 796
		24th Revised Sheet 830
		14th Revised Sheet 838d
		18th Revised Sheet 864
		18th Revised Sheet 874
		16th Revised Sheet 883
		6th Revised Sheet 940
		9th Revised Sheet 961
		5th Revised Sheet 977
		6th Revised Sheet 995
		5th Revised Sheet 999
		9th Revised Sheet 1078
		4th Revised Sheet 1103
		4th Revised Sheet 1113
		8th Revised Sheet 1150
6668	July 21, 1954	44th Revised Sheet 52
		38th Revised Sheet 73.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84193

In the matter of filing of tariffs by The Bell Telehone Company of Canada:

Case No. 955·161

WEDNESDAY, the 21st day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that the undermentioned revisions to tariffs filed to become effective on the dates set out, be, and they are hereby, approved:

Tariff C.T.C. No.	*Date Taking Effect*	*Description*
6716	September 1, 1954	2nd Revised Page 2,
		1st Revised Page 46,
		1st Revised Page 47,
		1st Revised Page 48,
		1st Revised Page 49,
	August 15, 1954	2nd Revised Page 115.
6108	August 15, 1954	Supplement No. 1.
6440	August 15, 1954	6th Revised Sheet 2,
		8th Revised Sheet 3.
6859	September 1, 1954	Original Sheet 1,
		Original Sheet 2,
		Original Sheet 3.
6860		Original Sheet 1,
		Original Sheet 2,
		Original Sheet 3,
		Original Sheet 4.
6861		Original Sheet 1,
		Original Sheet 2.
6862	September 1, 1954	Original Sheet 1,
		Original Sheet 2.
6863		Original Sheet 1,
		Original Sheet 2.
6864		Original Sheet 1,
		Original Sheet 2.
6865		Original Sheet 1,
		Original Sheet 2.
6866		Original Sheet 1,
		Original Sheet 2.
6652	August 15, 1954	22nd Revised Sheet 53,
		17th Revised Sheet 95,
	July 26, 1954	25th Revised Sheet 109,
	August 15, 1954	13th Revised Sheet 115,
		9th Revised Sheet 177,
	July 26, 1954	15th Revised Sheet 280,
	August 15, 1954	7th Revised Sheet 290,
		23rd Revised Sheet 295,
	July 26, 1954	8th Revised Sheet 413,
	August 15, 1954	17th Revised Sheet 430,
	July 26, 1954	9th Revised Sheet 438,
	August 15, 1954	20th Revised Sheet 486,
		11th Revised Sheet 487,
		14th Revised Sheet 488,

Tariff C.T.C. No.	*Date Taking Effect*	*Description*
6652	July 26, 1954	7th Revised Sheet 534,
		6th Revised Sheet 538,
		5th Revised Sheet 564,
	August 15, 1954	7th Revised Sheet 586,
	July 26, 1954	13th Revised Sheet 599,
	August 15, 1954	15th Revised Sheet 632,
		17th Revised Sheet 760,
	July 26, 1954	14th Revised Sheet 795,
	August 15, 1954	4th Revised Sheet 799,
	July 26, 1954	5th Revised Sheet 863,
		4th Revised Sheet 881,
	August 15, 1954	16th Revised Sheet 884,
		16th Revised Sheet 890,
	July 26, 1954	7th Revised Sheet 900a,
	August 15, 1954	17th Revised Sheet 904,
		6th Revised Sheet 981,
	July 26, 1954	7th Revised Sheet 1011,
		11th Revised Sheet 1013,
		8th Revised Sheet 1045,
	August 15, 1954	5th Revised Sheet 1054,
	July 26, 1954	3rd Revised Sheet 1089,
		5th Revised Sheet 1100,
		3rd Revised Sheet 1110,
	August 15, 1954	2nd Revised Sheet 1120,
	July 26, 1954	4th Revised Sheet 1132,
	July 26, 1954	5th Revised Sheet 1157,
		4th Revised Sheet 1166,
	August 15, 1954	3rd Revised Sheet 1192,
	July 26, 1954	1st Revised Sheet 1229,
		1st Revised Sheet 1230,
		1st Revised Sheet 1231,
		Original Sheet 1250,
		Original Sheet 1251,
		Original Sheet 1252,
		Original Sheet 1253,
		Original Sheet 1254.
6668	September 1, 1954	Supplement No. 128.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84083 July 6—Authorizing the C.P.R. to lengthen the circuits for automatic protection at the crossing of Highway No. 41, mileage 12·05, Ste. Agathe Subdivision, Quebec.

84084 July 6—In the matter of approval of plan submitted to the C.N.R. by Consumers' Co-Operative Refineries Limited showing the location of storage tanks, etc. at Regina, Saskatchewan.

84085 July 6—Approving proposed location of storage tanks, etc., of C.N.R. near their tracks at Hudson Bay, Saskatchewan.

84086 July 6—In the matter of application of the British American Oil Company Limited for an Order authorizing the construction of a private road across Interprovincial Pipe Line Company in the northeast quarter of Section 8-53-23 W4M, Alberta.

84087 July 7—Authorizing the C.P.R. to relocate the wig-wag signal at the crossing of Highway No. 19 at Milverton, Ontario.

84088 July 7—Authorizing the British Columbia Department of Public Works to construct the highway across the C.P.R. by means of an overhead bridge at mileage 22·22, Nelson Subdivision, British Columbia.

84089 July 8—Authorizing the C.N.R. to install block signals between mileage 0·0 and mileage 25, Kashabowie Subdivision.

84090 July 8—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84091 July 8—Authorizing the Newfoundland Department of Public Works to construct its highway across the C.N.R. at mileage 249·06, Clarenville Subdivision, Newfoundland.

84092 July 8—Authorizing the Canadian Northern Railway Company to construct a spur across 104th Avenue and along Lane 105½ in Block 5 Hudsons Bay Reserve, Edmonton, Alberta.

84093 July 8—In the matter of application of The Bell Telephone Company of Canada for approval of Supplementary Agreement between the Bell Telephone Company of Canada and certain Companies operating "The Trans-Canada Telephone System".

84094 July 8—Authorizing the Saskatchewan Department of Highways and Transportation to construct its highway across the C.N.R. at mileage 24·36, Cudworth Subdivision, Saskatchewan.

84095 July 8—Authorizing the Newfoundland Department of Public Works to construct its highway across the C.N.R. at Codroy Pond, Nfld.

84096 July 8—Permitting the removal of slow order at C.N.R. crossing and Interprovincial Highway No. 17, east of station at Arnprior, Ontario.

84097 July 8—Approving plan showing location of Western Pipe Lines company pipe line within the Counties of Lincoln and Welland, Ontario.

84098 July 8—In the matter of application of the City of Medicine Hat, Alberta, for an Order authorizing the construction of a pedestrian subway under the C.P.R. right-of-way from North Railway Street to South Railway Street between Second and Third Streets, in the City of Medicine Hat, Alberta.

84099 July 8—Authorizing the City of Calgary, Alberta, to construct a new road connecting 34th Avenue South East and 6th Street South East, across the C.P.R., Calgary, Alberta.

84100 July 9—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at West Shefford, Quebec.

84101 July 9—In the matter of changes in rate grouping of telephone exchanges of the Bell Telephone Company of Canada, pursuant to Circular No. 267.

84102 July 9—Approving operation of C.N.R.'s engines, etc., over the private siding serving the premises of Gamble-Robinson Limited, Kitchener, Ontario.

84103 July 9—Approving under the Maritime Freight Rates Act toll published in Tariff filed by the C.N.R. under sections 3 and 8.

84104 July 9—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.P.R. tracks at Sudbury, Ontario.

84105 July 9—In the matter of the application of the C.N.R. for an Order amending Order No. 83941, dated June 14, 1954.

84106 July 9—Dismissing the application of the Municipality of Ste. Therese de Gaspe, Que., for an Order directing the C.N.R. to appoint a regular agent at Ste. Therese de Gaspe, Quebec.

84107 July 9—Authorizing the Alberta Department of Public Works to construct a highway across the C.P.R.'s Red Deer Subdivision, opposite the Bowden Institution, Alberta.

84108 July 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Halkirk, Alberta.

84109 July 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at High River, Alberta.

84110 July 12—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near Northern Alberta Railways Company, at Barrhead, Alberta.

84111 July 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Lomond, Alberta.

84112 July 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Foremost, Alberta.

84113 July 12—In the matter of application of the City of St. Thomas, Ontario, for approval of By-law No. 88-53 prohibiting the sounding of any engine whistle.

84114 July 12—In the matter of application of the Municipal Corporation of the County of Welland and of the Municipal Corporation of the Town of Fort Erie, to construct a bridge at Central Avenue, Fort Erie, across the tracks of the New York Central Railroad Company and the C.N.R., etc.

84115 July 13—In the matter of approval of plan submitted to the C.N.R. by the Royalite Products Limited, showing proposed location of facilities for storage of inflammable liquids near Kamloops, B.C.

84116 July 13—Permitting the removal of slow order at C.N.R. crossing of Thames Street, in the Town of Ingersoll, Ontario.

84117 July 13—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Pangman, Saskatchewan.

84118 July 13—Authorizing the Town of LaSalle, P.Q., to construct Lapierre Street across the C.P.R. Loop Line right-of-way in the Town of LaSalle, Quebec.

84119 July 13—In the matter of application of the C.P.R. for an Order authorizing the construction of a private siding to serve Gulf Iron & Metal Company Limited across Mgr. Gauvreau Street, Quebec City, P.Q.

84120 July 13—Authorizing the Ontario Department of Highways to construct an overhead bridge at the crossing of Lower Middle Road and the C.N.R. at mileage 18·78 Oakville Subdivision, Ontario.

84121 July 14—Dismissing the application of the Fresh Fruit and Vegetable Receivers Association of Montreal for an Order directing the C.N.R. to furnish to the Montreal Fruit Terminal suitable facilities for unloading carload traffic consigned to the members of the Association, etc.

84122 July 14—Approving supplement to traffic agreement between the Bell Telephone Company of Canada and the International Nickel Company of Canada Limited.

84123 July 14—Approving supplement to traffic agreement between the Bell Telephone Company of Canada and the Corporation of the Township of Tuckersmith.

84124 July 14—Approving supplement to traffic agreement between the Bell Telephone Company of Canada and the Corporation of the Township of Hay.

84125 July 14—Approving proposed location of office building, etc., of Imperial Oil Limited, near C.P.R. tracks at Estevan, Saskatchewan.

84126 July 14—In the matter of consideration of the protection at the crossing of Highway 89 and the C.N.R. being the second public crossing south of Cookstown, Ontario.

84127 July 14—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 7, near Sunderland, Ontario.

84128 July 14—Approving supplement No. 2 to Service Station Contract between the Bell Telephone Company of Canada and the International Nickel Company of Canada Limited.

84129 July 14—Approving Traffic Agreement between the Bell Telephone Company of Canada and the Pefferlaw Telephone System Limited.

84130 July 14—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Commissioners for the Telephone System of the Municipality of the Township of Colborne.

84131 July 14—Approving operation of C.P.R. trains over the private siding serving Hudson Paper Company Limited in the City of Calgary, Alberta.

84132 July 14—In the matter of the application of the C.P.R. for an Order rescinding Order No. 83898 dated June 8, 1954, which authorized the construction of a private siding to serve Coutts Machinery Company Limited, Calgary, Alberta.

84133 July 14—Relieving the Dominion Atlantic Rly. Co. from erecting and maintaining right-of-way fencing between certain mileages on its Kentville Subdivision, Nova Scotia.

84134 July 14—Approving proposed location of storage tanks, etc., of the C.P.R. for the handling of inflammable liquids near their tracks at North Bay, Ontario.

84135 July 14—Authorizing the C.P.R. to construct a private siding across Railway Street, Kingston, Ontario.

84136 July 14—Authorizing Western Pipe Lines to construct a pipe line across the bed of the Welland Ship Canal and the adjacent canal lands lying to the east and west of the Welland Ship Canal in the Township of Thorold, Ontario.

84137 July 14—Authorizing the Western Pipe Lines to construct a steel pipe line in the bed of Twenty Mile Creek, Township of Clinton, Ontario.

84138 July 14—In the matter of the application of the Cayuga Steamship Company under section 18 of the Transport Act, for approval of Standard Passenger Tariff C.T.C. No. P.1.

84139 July 14—In the matter of the application of the Cayuga Steamship Company under section 18 of the Transport Act, for approval of Standard Freight Tariff C.T.C. No. F.1.

84140 July 14—Permitting the removal of slow order at the crossing of the Montreal and Southern Counties Railway and Robinson Street, Granby West Station, Granby, Quebec.

84141 July 14—Approving proposed location of pipe line of Imperial Oil Limited, near the C.P.R. tracks, Owen Sound, Ontario.

84142 July 14—In the matter of application of the C.P.R. for approval of Plan showing the proposed installation of automatic protection, across Horne Avenue, Mission City, British Columbia.

84143 July 14—In the matter of the accident at the crossing of Provincial Highway No. 3 and the C.N.R. at Port Colborne, Ontario.

84144 July 15—In the matter of the application of the New York Central Railroad Company, for permission to discontinue passenger service over the line of the Ottawa and New York Railway between Helena, N.Y., and Ottawa, Ontario.

84145 July 15—Permitting the removal of slow order at C.P.R. crossing and 42nd Avenue S.E., in the City of Calgary, Alberta.

84146 July 15—Permitting the removal of slow order at C.P.R. crossing, east of the station at Komoka, Ontario.

84147 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the Northern Alberta Railways Company at Rycroft, Alberta.

84148 July 15—Approving proposed location of pipe lines, etc., of Imperial Oil Limited, near the C.P.R. tracks at Macklin, Saskatchewan.

84149 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Sonningdale, Saskatchewan.

84150 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near N.A.R. Company tracks at Beaverlodge, Alberta.

84151 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the N.A.R. Company at Fawcett, Alberta.

84152 July 15—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

84153 July 15—Authorizing the C.P.R. to use and operate the bridge over Chin Lake, Alberta.

84154 July 15—Approving proposed location of pipe lines of Imperial Oil Limited at Montreal East, Quebec.

84155 July 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84156 July 16—Permitting the removal of slow order at the crossing of the C.N.R. and Provincial Highway No. 17, north of the station at Coniston, Ontario.

84157 July 16—Permitting the removal of slow order at C.N.R. crossing of Timmins Street, North Bay, Ontario.

84158 July 16—Authorizing the C.N.R. to make changes in the automatic protection at the crossing of their railway and Glenburnie Road, west of the station at Kingston, Ontario.

84159 July 16—Permitting the removal of slow order at the crossing of the C.P.R. and Highway No. 2, east of the Town of Cobourg, Ontario.

84160 July 16—Permitting the removal of slow order at C.N.R. crossing of Stanley Avenue, west of the station at Niagara Falls, Ontario.

84161 July 16—Permitting the removal of slow order at C.N.R. crossing at Goodwood, Ontario.

84162 July 16—Authorizing the C.N.R. to use and operate the bridge at mileage 13·2 Skeena Subdivision, British Columbia.

84163 July 16—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at Viscount, Saskatchewan.

84164 July 16—Authorizing the C.N.R. to use and operate the bridge at mileage 8·3 Bulkley Subdivision, British Columbia.

84165 July 16—Permitting the removal of slow order at C.N.R. crossing of Hagar Street in the City of Welland, Ontario.

84166 July 16—Permitting the removal of slow order at C.N.R. crossing of Hurontario Street, Village of Port Credit, Ontario.

84167 July 16—Permitting the removal of slow order at C.N.R. crossing of O'Brien Boulevard north of the station at Monklands, Quebec.

84168 July 16—Permitting the removal of slow order at C.P.R. crossing, east of station at Cluny, Alberta.

84169 July 16—Permitting the removal of slow order at C.P.R. crossing of Highway No. 21, east of the station in the Town of Maple Creek, Saskatchewan.

84170 July 16—Authorizing the Municipality of the Village of Hudson, P.Q., to construct Beach Road across the C.P.R.

84171 July 16—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Stornoway, Saskatchewan.

84172 July 19—In the matter of application of Western Pipe Lines, for approval of plan showing location of company pipe line with the Counties of Lincoln and Wentworth, Ontario.

84173 July 19—Authorizing the C.N.R. to use the bridge at mileage 85·6 Skeena Subdivision, British Columbia.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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GENERAL ORDER No. 800

In the matter of the application of the Executive Council of the Province of Alberta for an Order amending Appendix "C" of General Order No. 581:

File No. 40994

THURSDAY, the 8th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Appendix "C" of General Order No. 581 be, and it is hereby, amended by adding to the list, to whom a copy of any application to the Board for approval of an Agreed Charge be sent, the "Alberta Freight Bureau, Edmonton, Alberta".

HUGH WARDROPE,
Assistant Chief Commissioner.

92932—1

GENERAL ORDER No. 801

In the matter of the application of the Executive Council of the Province of Alberta for an Order amending General Order No. 695:

File No. 25639

THURSDAY, the 8th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said General Order No. 695 be, and it is hereby, amended by adding to the list of those to whom notices of changes in the Canadian Freight Classification be sent, the "Alberta Freight Bureau, Edmonton, Alberta".

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84222

In the matter of the application of the Canadian Freight Association dated June 18, 1954, for continuance of approval of Agreed Charge Tariff C.T.C. (AC) No. 49 with modifications:

File No. 40994·38

FRIDAY, the 23rd day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas Agreed Charge Tariff C.T.C. (AC) 49 applying on Lubricating Oils and Greases, carloads, in tank cars; and on Petroleum Products, carloads, in packages; from Clarkson's, Sarnia and Toronto, Ontario; and from Montreal, Quebec; to points in Western Canada, was approved by Order No. 80206, dated the 17th November, 1952, without restriction of time, for carriage of the traffic of The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, and McColl Frontenac Oil Company Limited by the carriers named therein;

And whereas the Board has subsequently fixed charges, the same as the agreed charge, for Socony-Vacuum Oil Company of Canada Limited (formerly White Star Refining Company Limited, C. C. Wakefield & Company Limited, International Waxes Limited, Tide Water Associated Oil Company (Canada) Limited, and Panther Oil & Grease Mfg. Company Limited.

And whereas the parties to the Agreed charge and those for whom charges were fixed, have submitted supplement No. 6 to the aforesaid Agreed Charge tariff modifying the scope thereof and have signified their agreement to such modifications by affixing their signatures thereto;

It is ordered that the Board's approval of the Agreed Charge published in Tariff C.T.C. (AC) No. 49, be, and it is hereby, continued with the modifications stated in supplement No. 6 thereto as on file with the Board;

It is further ordered that charges fixed as aforesaid shall be subject to the same modifications as set out in the said supplement No. 6 and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84242

In the matter of the application of Canadian National Telegraph Company and Canadian Pacific Railway Company, dated July 8, 1954, regarding amendments to Tariffs C.T.C. No. 131 and C.T.C. No. 33 covering telegraph rates applicable between Canada and the United States:

File No. 10041·138

WEDNESDAY, the 28th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that, contingent upon the going into force of like rates in tariffs filed with the Federal Communications Commission, the following tariff schedules be, and they are hereby approved, to be effective on August 15, 1954, subject to complaint and investigation as provided by the Railway Act:

CANADIAN NATIONAL TELEGRAPHS

Amendments to Tariff C.T.C. No. 131 Effective Aug. 15, 1954

First Revised Pages:
20A, 20B, 120A, 128A, 128B, 128C, 128D, 128E, 130.

Second Revised Pages:
117, 120, 124, 125, 126, 127, 128.

Third Revised Pages:
36A, 102A, 102B.

Fourth Revised Pages:
9, 10, 17, 19, 21, 35, 36, 42, 65, 67, 69, 102.

Fifth Revised Pages:
18, 20, 41, 55, 66, 68, 84, 89A.

Sixth Revised Pages:
50, 88, 89.

CANADIAN PACIFIC RAILWAY COMPANY COMMUNICATIONS DEPARTMENT

Amendments to Tariff C.T.C. No. 33 Effective Aug. 15, 1954

First Revised Pages:
23A, 23B, 138A, 138B, 138C, 138D, 138E.

Second Revised Pages:
129, 132, 134, 135, 136, 137, 138.

Third Revised Pages:
12A, 39A, 44A, 55A, 98A, 98B.

Fourth Revised Pages:
11, 12, 20, 22, 24, 38, 39, 63, 65, 67, 85A, 98.

Fifth Revised Pages:
21, 23, 44, 50, 55, 64, 66.

Sixth Revised Pages:
84, 85.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84249

In the matter of the application of Boese Foods Limited, The Laurentide Dairy Products Corporation, Montreal, Shannonville Canners Limited and Erie Canning Company, Merlin, Ontario, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

FRIDAY, the 30th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for the following companies: Boese Foods Limited, The Laurentide Dairy Products Corporation, Montreal, Shannonville Canners Limited and Erie Canning Company, Merlin, Ontario, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84304

In the matter of the application of the Canadian Freight Association dated June 29, 1954, for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) 57:

File No. 40994·44

THURSDAY, the 5th day of August, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge tariff C.T.C. (AC) 57 be, and it is hereby approved, and that the date as from which the said Supplement shall be deemed to have become operative is hereby fixed as June 30, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84305

In the matter of filing of tariffs by the British Columbia Telephone Company:

File No. 29885·14

THURSDAY, the 5th day of August, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that the undermentioned revisions to tariffs filed to become effective on the date set out, be, and they are hereby, approved:

Tariff C.T.C. No.	*Date Taking Effect*	*Description*	
37	July 26, 1954	1st Revised Title Page	1st Revised Page 46
		1st Revised Page I	1st Revised Page 49
		1st Revised Page II	1st Revised Page 50
		1st Revised Page III	1st Revised Page 52
		1st Revised Page IV	Original Page 52-A
		1st Reivsed Page V	1st Revised Page 67
		1st Revised Page IV	1st Revised Page 71
		1st Revised Page VII	1st Revised Page 72
		1st Revised Page VIII	1st Revised Page 73
		1st Revised Page IX	Original Page 75-A
		1st Revised Page X	Original Page 75-B
		1st Revised Page XI	1st Revised Page 76
		1st Revised Page XII	1st Revised Page 77
		1st Revised Page XIII	Original Page 78
		1st Revised Page XIV	Original Page 80-A
		1st Revised Page XV	1st Revised Page 86
		1st Revised Page XVI	Original Page 89
		1st Revised Page XVII	1st Revised Page 96
		1st Revised Page XVIII	Original Page 100
		1st Revised Page XIX	1st Revised Page 102
		1st Revised Page XX	Original Page 102-A
		1st Revised Page XXI	Original Page 102-B
		1st Revised Page XXII	Original Page 102-C
		1st Revised Page XXIII	Original Page 104-A
		1st Revised Page XXIV	Original Page 107-A
		1st Revised Page 1	Original Page 109
		1st Revised Page 4	1st Revised Page 111
		Original Page 4-A	Original Page 111-A
		1st Revised Page 6	1st Revised Page 124
		Original Page 11	Original Page 124-A
		Original Page 12	1st Revised Page 126
		1st Revised Page 13	1st Revised Page 133
		1st Revised Page 44	1st Revised Page 134
		1st Revised Page 45	1st Revised Page 140
		1st Revised Page 141	1st Revised Page 280
		1st Revised Page 142	1st Revised Page 281
		1st Revised Page 143	1st Revised Page 282
		1st Revised Page 146	Original Page 282-A
		Original Page 147	1st Revised Page 283
		1st Revised Page 155	Original Page 284
		Original Page 155-A	1st Revised Page 286
		1st Revised Page 163	Original Page 286-A
		Original Page 163-A	1st Revised Page 299
		1st Revised Page 164	1st Revised Page 302
		Original Page 164-A	1st Revised Page 303
		1st Revised Page 167	1st Revised Page 304
		1st Revised Page 170	1st Revised Page 310
		Original Page 174	1st Revised Page 311
		Original Page 175	1st Revised Page 312
		Original Page 176-A	1st Revised Page 313
		1st Revised Page 186	1st Revised Page 314
		1st Revised Page 187	1st Revised Page 319

Tariff C.T.C. No.	*Date Taking Effect*	*Description*	
37	July 26, 1954	1st Revised Page 201	1st Revised Page 326
		1st Revised Page 202	1st Revised Page 330
		1st Revised Page 204	1st Revised Page 331
		1st Revised Page 207	Original Page 333
		Original Page 207-A	1st Revised Page 335
		1st Revised Page 208	1st Revised Page 336
		1st Revised Page 216	1st Revised Page 337
		Original Page 218-A	1st Revised Page 338
		Original Page 218-B	1st Revised Page 344
		1st Revised Page 229	Original Page 349
		Original Page 229-A	Original Page 350
		1st Revised Page 230	1st Revised Page 354
		1st Revised Page 238	1st Revised Page 355
		Original Page 238-A	1st Revised Page 356
		1st Revised Page 243	1st Revised Page 370
		Original Page 243-A	Original Page 373
		1st Revised Page 244	1st Revised Page 374
		1st Revised Page 245	1st Revised Page 375
		1st Revised Page 246	1st Revised Page 381
		1st Revised Page 247	1st Revised Page 390
		1st Revised Page 248	1st Revised Page 391
		1st Revised Page 253	1st Revised Page 392
		1st Revised Page 254	1st Revised Page 398
		1st Revised Page 255	1st Revised Page 399
		1st Revised Page 256	Original Page 400-A
		Original Page 256-A	Original Page 409
		1st Revised Page 257	1st Revised Page 410
		Original Page 257-A	1st Revised Page 412
		1st Revised Page 259	Original Page 412-A
		1st Revised Page 260	1st Revised Page 413
		1st Revised Page 263	Original Page 417-A
		1st Revised Page 268	1st Revised Page 418
		1st Revised Page 269	1st Revised Page 410
		1st Revised Page 269-A	

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84318

In the matter of the application of the Canadian Freight Association, dated June 22, 1954, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated June 22, 1954, between the Canadian National Railways, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Essex Terminal Railway Company, The New York Central Railroad Company (Michigan Central District) and Wabash Railroad Company and the Ford Motor Company of Canada Limited, on automotive rear axle assemblies, from East Windsor, Walkerville and Windsor, Ontario, to Oakville, Ontario:

File 40994·61

THURSDAY, the 5th day of August, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed, notice of the said application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections having been filed—

It is ordered that the agreed charge on file with the Board under file No. 40994·61, between the parties described in paragraph A thereof, applying on automotive rear axle assemblies from the stations and/or places specified in paragraph C1 of the said agreed charge to stations and/or places specified in paragraph C2 thereof, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 24th day of June, 1954, and to continue in effect subject to Condition 7 thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JUNE, 1954

Railway Accidents	189	Killed	13	Injured	214
Level Crossing Accidents ...	23	Killed	11	Injured	30
Total	212		24		244

	Killed	*Injured*
Passengers	—	46
Employees	2	164
Others	22	34
Total	24	244

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		QUEBEC
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 21-229.
—	1	Auto truck ran into side of train. Licence: Que. L-19948.
		ONTARIO
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 747-S-4.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 75-W-40.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8-E-467.
—	1	Auto truck ran into side of train. Licence: Ont. C-84999.
—	2	Automobile ran into side of train. Licence: Ont. DP-23.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 17460-B.
—	1	Oil truck drove onto crossing in front of approaching train and was struck. Licence: Ont. K-5259.
—	1	Automobile ran into side of train. Licence: Ont. 3-A-214.
2	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. HS-244.
—	1	Automobile ran into side of train. Licence: Ont. HX-114.
1	1	Automobile ran into side of train. Licence: Ont. 6-Z-695.
—	1	Automobile ran into side of train. Licence: Que. 451846.
		SASKATCHEWAN
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-9390.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 83-160.
		ALBERTA
—	3	Automobile ran into side of train. Licence: Alta. TJ-971.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. C-86189.
3	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CBX-58110.
		BRITISH COLUMBIA
—	5	Automobile struck by track motor car. Licence not given.
—	1	Automobile ran into side of train. Licence: B.C. 2650-D.

Of the 23 accidents at Highway crossings, 17 occurred at unprotected crossings, and 6 at protected crossings. Fourteen occurred after sunrise and nine after sunset.

OTTAWA, Ontario, July 30, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84174 July 19—Authorizing the C.N.R. to operate over the Atwater Tunnel, Montreal, Quebec.

84175 July 19—Authorizing the C.P.R. to replace the existing timber trestle at mileage 35·2 Coquihalla Subdivision, British Columbia.

84176 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Choiceland, Saskatchewan.

84177 July 20—Approving proposed location of storage tanks, etc., of the C.N.R. near their tracks at Calgary, Alberta.

84178 July 20—Approving proposed location of storage tank, etc., of C.P.R., near its tracks at False Creek Yard, Vancouver, British Columbia.

84179 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Gladmar, Saskatchewan.

84180 July 20—Approving proposed location of pipe line of the C.P.R., for the handling of inflammable liquids, near its tracks at Vancouver, B.C.

84181 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Wynyard, Saskatchewan.

84182 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Kisbey, Saskatchewan.

84183 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Smeaton, Saskatchewan.

84184 July 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Souris, Manitoba.

84185 July 20—Approving the operation of C.P.R. trains over the private siding serving Victoria Paper Company Limited, Township of Scarborough, County of York, Ontario.

84186 July 20—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Bredenbury Subdivision, Manitoba.

84187 July 20—Authorizing the C.N.R. to re-locate their tracks at crossing of Woodbine Avenue, Toronto, Ontario.

84188 July 21—Approving the operation of C.N.R. trains over the private siding serving the Department of National Defence (Army) Ordnance Depot, Edmonton, Alberta.

84189 July 21—In the matter of the application of the Vanderhoof and District Board of Trade for an Order authorizing the installation of automatic protection at the crossing of Burrard Street and the C.N.R. at Vanderhoof, British Columbia.

84190 July 21—In the matter of the application of the Township of Kingston, Ontario, for an Order directing the C.N.R. to install automatic protection at the crossing of their railway and Westbrooke Road, east of the station at Collins Bay, Ontario.

84191 July 21—Authorizing the C.P.R. to cross Long Lake, Ontario, mileage 11·03 Nephton Subdivision.

84192 July 21—Approving less than standard clearances of small freight shed located on the loading platform of Toronto Harbour Commissioners Freight Shed No. 4, Toronto, Ontario.

84193 July 21—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

84194 July 22—Authorizing the City of Toronto to construct a subway at the crossing of the C.N.R. and Davenport Road, Toronto, Ontario.

84195 July 22—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Dominion Atlantic Railway Company under section 8.

84196 July 22—Authorizing the C.N.R. to construct and maintain two additional tracks across Vinet Street, to relocate one track and construct five additional tracks across Fulford Street, etc., Montreal, Quebec.

84197 July 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Consul, Alberta.

84198 July 22—Authorizing the New York Central Railroad Company to remove the station agent and station building at Athelstan, Quebec.

84199 July 22—Authorizing the City of Calgary, Alberta, to construct the highway across the C.N.R. at 19th Street S.E., Calgary, Alberta.

84200 July 22—Authorizing the B.C. Department of Public Works to construct the Trans-Canada Highway across the C.N.R. by means of an overhead bridge, at mileage 5·38 Cowichan Subdivision, British Columbia.

84201 July 22—Authorizing the C.P.R. to construct a public crossing over its right-of-way at mileage 107·6 Broadview Subdivision, Manitoba.

84202 July 22—Amending Order No. 78241, dated February 5, 1952, which authorized the C.N.R. to install automatic protection at crossing of Bourbonniere Street, Montreal, Quèbec.

84203 July 22—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Railway Company under section 8.

84204 July 23—In the matter of the application of the C.N.R. on behalf of Imperial Oil Limited for an extension of temporary permit to load crude oil into tank cars from tank trucks at Smiley, Saskatchewan.

84205 July 23—In the matter of approval of plan submitted to the C.N.R. by Husky Oil & Refining Ltd., showing proposed location of storage tank, etc., at Flaxcombe, Saskatchewan.

84206 July 23—Authorizing the Alta. Department of Highways to construct Highway No. 16 across the right-of-way of the Trans Mountain Oil Pipe Line Company in the southeast quarter of Section 14-51-Rge. 25-W5M, Alberta.

84207 July 23—Authorizing the C.P.R. to make a change in the operating circuit of the protection at the crossing of its railway and North Street, Sault Ste. Marie, Ontario.

84208 July 23—Approving revised Appendix to Traffic Agreement between the Bell Telephone Company and La Compagnie de Téléphone de Kamouraska.

84209 July 23—Approving Supplement to Traffic Agreement between the Bell Telephone Company and the Laurel Telephone System.

84210 July 23—Authorizing the Corporation of the District of Surrey, B.C., to construct a highway across the Brownsville Spur loop at mileage 2·51 and mileage 2·82 of the main spur of the C.N.R. in the Corporation of the District of Surrey, British Columbia.

84211 July 23—Authorizing the New York Central Railroad Company to remove the agent and the station building at St. Timothee, Quebec.

84212 July 23—In the matter of the application of the C.N.R. for an Order amending Order No. 33281, dated January 16, 1923, which approved plan showing automatic protection at the gauntlet track at Port Robinson, Ontario.

84213 July 23—Permitting the removal of slow order at C.P.R. crossing of John Street, Almonte, Ontario.

84214 July 23—Permitting the removal of slow order at C.P.R. crossing at mileage 89·56 Neudorf Subdivision, Saskatchewan.

84215 July 23—Approving Supplement to Traffic Agreement between the Bell Telephone Company and The Rupert and North Wakefield Telephone Company Limited.

84216 July 23—Approving Supplement to Service Station Contract between the Bell Telephone Company and The Rupert and North Wakefield Telephone Company Limited.

84217 July 23—Approving plan, profile and book of reference showing the location of Western Pipe Lines' company pipe line within the County of Lincoln, Ont., from a point on the International Boundary, near Lewiston Bridge to a point on the westerly high water mark of the Niagara River, Ontario.

84218 July 23—Authorizing Western Pipe Lines to construct its company pipe line across that part of the Niagara River within the Dominion of Canada at a site opposite Lots 14 and 15, in the Township of Niagara, Ontario.

84219 July 23—In the matter of the application of the C.P.R. for approval of restricted clearance of the proposed overhead crane for Garson Limestone Company over Partridge Avenue spur, Winnipeg, Man.

84220 July 24—In the matter of the application of Trans-Canada Pipe Lines and Western Pipe Lines for leave to construct pipe line for the transportation of gas from a point east of the Town of Princess, Alberta, to certain points in the Provinces of Manitoba, Ontario and Quebec.

84221 July 23—In the matter of application of the C.P.R. on behalf of the Shell Oil Company for extension of temporary permit to load crude oil into tank cars from tank trucks at Midale, Saskatchewan.

84222 July 23—In the matter of application of the Canadian Freight Association for continuance of approval of Agreed Charge Tariff C.T.C. (AC) No. 49 with modifications.

84223 Aug. 4—In the matter of application of the Canadian Passenger Association *re* commutation fares and in the matter of application of the Oakville Commuters Association in regard to commutation train service.

84224 July 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Elrose, Saskatchewan.

84225 July 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Brustall, Saskatchewan.

84226 July 26—In the matter of application of the C.N.R. on behalf of Great Plains Development Company of Canada Limited for an extension of temporary permit to load crude oil into tank cars from tank trucks at mileage 0·25 Drumheller North Branch, Alberta.

84227 July 26—In the matter of approval of plan submitted to the C.N.R. by Halifax Propane Gas Limited showing proposed location of storage tanks, etc., for storage of liquefied petroleum gas at Waverley, Nova Scotia.

84228 July 26—In the matter of application of the City of Winnipeg, Manitoba, for installation of automatic protection at the crossing of Talbot Avenue and the C.P.R., Winnipeg, Manitoba.

84229 July 26—In the matter of application of the Great Northern Railway Company for an Order rescinding Orders Nos. 24869 and 55577 which restricted the movements of trains on that portion of its track between mileages 123 and 127, Cascade Subdivision, B.C.

84230 July 27—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at The Pas, Manitoba.

84231 July 27—Extending the time within which the C.P.R. is required to install certain protection to the crossing of its railway and Horne Avenue at Mission, British Columbia.

84232 July 27—Approving Appendix "A" to Traffic Agreement between the Bell Telephone Company of Canada and Aime Huot, Proprietor, Huot Telephone Service Registered.

84233 July 27—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Town Line Telephone Association of Stafford and Pembroke Limited.

84234 July 27—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Pembroke and Mud Lake Telephone Company Limited.

84235 July 28—Requiring the C.N.R. to install certain protection at the crossing of their railway and Hardy Road west of the City of Brantford, Ontario.

84236 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Cudworth, Saskatchewan.

84237 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Radway, Alberta.

84238 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Bashaw, Alberta.

84239 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at Lancer, Saskatchewan.

84240 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at St. Paul, Alberta.

84241 July 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Shoal Lake, Manitoba.

84242 July 28—In the matter of the application of the Canadian National Telegraph Company and the Canadian Pacific Railway Company regarding amendments to Tariffs C.T.C. No. 131 and C.T.C. No. 33 covering telegraph rates applicable between Canada and the United States.

84243 July 28—In the matter of application of Western Pipe Lines for leave to construct its company pipe line across another pipe line laid in Highway No. 56, Township of Binbrook, Ontario.

84244 July 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at St. Brieux, Saskatchewan.

84245 July 29—Approving Traffic Agreement including Supplement between the Bell Telephone Company of Canada and La Cie de Téléphone Locale, Halifax, Sud-Ouest.

84246 July 29—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84247 July 29—Authorizing the C.P.R. to construct a branch line of railway to serve North Star Oil Limited in the City of St. Boniface, Manitoba.

84248 July 29—Authorizing the C.P.R. and the New York Central Railroad Company to operate their trains through the interlocking plant at the crossing of their railways at Finch, Ontario.

84249 July 30—In the matter of application of Boese Foods Limited, The Laurentide Dairy Products Corporation, Montreal, Shannonville Canners Limited and Erie Canning Company, Merlin, Ontario, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board.

84250 July 30—Authorizing the C.N.R. to operate under the overhead bridge at Ritson Road, in the City of Oshawa, Ontario.

84251 July 30—Authorizing the C.N.R. to make signal changes between mileage 13 and mileage 27, Oakville Subdivision, Ontario.

84252 July 30—Approving proposed location of storage tanks, etc., of North Star Oil Limited near C.N.R. tracks at Hafford, Saskatchewan.

84253 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Buchanan, Saskatchewan.

84254 July 30—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Lake Lenore, Saskatchewan.

84255 July 30—Approving proposed location of storage tanks, etc., of North Star Oil Limited near the C.N.R. tracks at Whitecourt, Alberta.

84256 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Shell Lake, Saskatchewan.

84257 July 30—Approving proposed location of storage tanks, etc., of the Arborfield Co-Operative Association Limited near C.N.R. tracks at Aborfield, Saskatchewan.

84258 July 30—In the matter of application of the City of Ottawa, Ontario, for an Order requiring the Bell Telephone Company of Canada to remove its aerial telephone lines and poles on Sussex Street, Ottawa, Ont.

84259 July 30—Approving plan showing location of Western Pipe Lines company pipe line within the County of Wentworth, Ont.

84260 July 30—Approving plan showing location of Western Pipe Lines company pipe line within the Counties of Halton and Peel, Ontario.

84261 July 30—Permitting the removal of slow order at C.N.R. crossing of Highway No. 16, west of the station at Obed, Alberta.

84262 July 30—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 36, north of station at Dunsford, Ontario.

84263 July 30—Extending the time within which the protection is to be installed by the C.N.R. at crossing west of station at South Durham, Quebec.

84264 July 30—In the matter of application of the Village of Coteau Station, Quebec, for installation of additional protection at the crossing of the C.N.R. and Vernier Road just east of Coteau Station, Quebec.

84265 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the tracks of the C.N.R. at Pelly, Saskatchewan.

84266 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.N.R. at Wildwood, Alberta.

84267 July 30—Permitting the removal of slow order at C.P.R. crossing of Lorne Avenue, west of station at Port Hammond, British Columbia.

84268 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.N.R. at Morrin, Alberta.

84269 July 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at Quill Lake, Saskatchewan.

84270 July 30—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Canadian Freight Association under sections 3 and 8.

84271 July 30—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the C.F.A. under sections 3 and 8.

84272 Aug. 3—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the tracks of the C.N.R. at Wroxton, Saskatchewan.

84273 Aug. 3—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 6, near Seal Cove, Quebec.

84274 Aug. 3—In the matter of application of the C.N.R. on behalf of Dome Exploration (Western) Limited for extension of temporary permit to load crude oil from tank trucks into tank cars, near Drumheller, Alberta.

84275 Aug. 3—Requiring the C.N.R. to install certain protection at the crossing of Sophia Street, in the Town of Prescott, Ontario.

84276 Aug. 3—Authorizing the Niagara, St. Catharines and Toronto Railway to operate the bridge at mileage 2·3 Welland Subdivision, Ontario.

84277 Aug. 3—Authorizing the C.N.R. to operate over the subway at Dundas Street East, Toronto, Ontario.

84278 Aug. 4—In the matter of installation of protection at the C.N.R. crossing of Prince Street, Sorel, Quebec.

84279 Aug. 4—Authorizing the C.N.R. to discontinue the station at Gould's, Ontario.

84280 Aug. 4—In the matter of approval of the plan submitted by the C.N.R. showing proposed location of pipe lines, pumphouse, etc., for the handling and storage of inflammable liquids at Brandon, Manitoba.

84281 Aug. 4—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Brancepeth, Saskatchewan.

84282 Aug. 4—Authorizing the Saskatchewan Department of Highways and Transportation to widen the highway where it crosses the C.P.R. at mileage 4·76 Outlook Subdivision.

84283 Aug. 4—Authorizing the C.P.R. to construct a branch line of railway to serve St. James Industrial Area, in the Rural Municipality of St. James, Manitoba.

84284 Aug. 4—Approving proposed location of storage tanks, etc., of C.N.R. for the handling and storage of inflammable liquids at The Pas, Manitoba.

84285 Aug. 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.N.R. at Vita, Manitoba.

84286 Aug. 4—Approving location and details of the Grand Trunk Pacific Railway Company's freight and passenger shelter proposed to be erected to replace the present station building at Bardo, Alberta.

84287 Aug. 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.N.R. at Ruthilds, Saskatchewan.

84288 Aug. 4—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Blaine Lake, Saskatchewan.

84289 Aug. 4—In the matter of application of the C.N.R. for an Order authorizing the conversion of the lift span of the Fraser River Bridge, Prince George, British Columbia, into a fixed span.

84290 Aug. 4—In the matter of application of Shell Oil Company, for an Order granting an extension of the period of approval of crude oil site at Reno, Alberta.

84291 Aug. 4—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., for the handling and storage of inflammable liquids at Kamsack, Saskatchewan.

84292 Aug. 4—Authorizing the Saskatchewan Dept. of Highways and Transportation, to widen the highway where it crosses the C.P.R. at mileage 48·3 Expanse Subdivision.

84293 Aug. 4—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 2.

84294 Aug. 4—Authorizing the C.N.R. to close the agency at Minessing, Ontario.

84295 Aug. 4—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., for the handling and storage of inflammable liquids at North Battleford, Saskatchewan.

84296 Aug. 4—Authorizing the C.N.R. to operate over the subway at Jones Avenue, Toronto, Ontario.

84297 Aug. 4—In the matter of application of the C.P.R. for approval of plan showing proposed changes in the automatic protection installed at the crossing of Highway No. 69 near Bala, Ontario.

84298 Aug. 5—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway north of Gormley, Ontario.

84299 Aug. 5—Permitting the removal of slow order at C.N.R. crossing east of the station at Bells Corners, Ontario.

84300 Aug. 5—Permitting the removal of slow order at C.N.R. crossing of Trans Canada Highway No. 1 west of Chapmans, British Columbia.

84301 Aug. 5—Authorizing the C.N.R. to construct a branch line of railway on North Star Oil Limited property, City of St. Boniface, Manitoba.

84302 Aug. 5—Authorizing the C.N.R. to operate under the overhead bridge at mileage 135·7 Alderdale Subdivision, Ontario.

84303 Aug. 5—Authorizing the C.P.R. to operate over the subway at Dupont Street, Toronto, Ontario.

84304 Aug. 5—In the matter of application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) 57.

84305 Aug. 5—In the matter of filing of tariffs by the British Columbia Telephone Company.

84306 Aug. 5—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of storage tanks, etc., for the handling and storage of inflammable liquids at Regina, Saskatchewan.

84307 Aug. 5—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Conquest, Saskatchewan.

84308 Aug. 5—Authorizing the C.N.R. to construct a bridge over Long Lake Creek, Ontario, at mileage 4·3 Maynooth Subdivision.

84309 Aug. 5—In the matter of approval of plan submitted to the C.N.R. showing proposed location of storage tanks, etc., of Imperial Oil Limited, at Hodgeville, Saskatchewan.

84310 Aug. 5—Approving proposed location of storage tanks, etc., of Cockshutt Aircraft Limited, near the tracks of the C.P.R. at Renfrew, Ontario.

84311 Aug. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.P.R. at Czar, Alberta.

84312 Aug. 5—Permitting the removal of slow order at C.P.R. crossing near Kamloops, British Columbia.

84313 Aug. 5—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near C.N.R. tracks at Hanna, Alberta.

84314 Aug. 5—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Carberry, Manitoba.

84315 Aug. 5—Authorizing the C.N.R. to remove the station agent at McGee, Sask.

84316 Aug. 5—In the matter of application of C.N.R. for an extension of temporary permit for the handling of Class II inflammable liquids at Pagwa, Ontario.

84317 Aug. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Neepawa, Manitoba.

84318 Aug. 5—In the matter of application of the C.F.A. for approval of Agreed Charge dated June 22, 1954, between the C.N.R., C.P.R., The Chesapeake and Ohio Railway Company, etc., and the Ford Motor Co. of Canada, Ltd., on automative rear axle assemblies, from East Windsor, Walkerville, and Windsor, Ontario, to Oakville, Ont.

84319 Aug. 5—In the matter of application of the C.P.R. for approval of plan showing details of the overhead bridge at mileage 105·49 Swift Current Subdivision, Saskatchewan.

84320 Aug. 6—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under section 3.

84321 Aug. 6—Authorizing the C.N.R. (Canadian Northern Railway Company), to construct a private siding across Madison Street, in the Parish of St. James, Manitoba.

84322 Aug. 6—In the matter of application of the New Brunswick Department of Public Works to authorize the construction of a highway crossing at mileage 86·95 Shogomoc Subdivision of the C.P.R., in the Parish of Kent, New Brunswick.

84323 Aug. 6—Authorizing the C.P.R. to relocate a portion of its Shogomoc Subdivision between mileage 84·85 and mileage 87·20 in the Parish of Kent, New Brunswick.

84324 Aug. 6—In the matter of application of the C.N.R. for approval of plan showing protection as relocated at the crossing of Monaghan Road, south of Lansdowne Street, Peterborough, Ontario.

84325 Aug. 6—In the matter of application of the Saskatchewan Department of Highways for an Order authorizing it to widen its highway where it crosses the C.N.R. at mileage 47·5, Central Butte Subdivision.

84326 Aug. 6—In the matter of application of the Parish of St. Janvier, Quebec, for an Order authorizing the installation of protection at the crossing of highway and the railway of the C.P.R. south of station, St. Janvier.

84327 Aug. 6—In the matter of the relocation of the underground plant of the Bell Telephone Company of Canada, where it crosses the C.N.R. at the subway at the intersection of Highway No. 29 and the C.N.R. in the Village of St. Eustache sur le Lac, Quebec.

84328 Aug. 6—In the matter of Order No. 83810, dated May 26, 1954, which authorized the Public Utilities Commission, Midland, Ontario, to construct a transmission line in the Town of Midland, Ontario, on the property of the C.N.R.

84329 Aug. 6—Authorizing the Saskatchewan Department of Highways, to widen its highway where it crosses the C.P.R. at mileage 60·22 Expanse Subdivision, Saskatchewan.

84330 Aug. 6—Authorizing the Alberta Department of Water Resources to construct a culvert across the C.P.R. in the northwest quarter of Sec. 3-14-18-W4M, Alberta.

84331 Aug. 6—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.F.A. under sections 3 and 8.

84332 Aug. 6—Permitting the removal of slow order at Dominion Atlantic Railway Co. crossing of Provincial Highway No. 1, east of the station at Falmouth, Nova Scotia.

84333 Aug. 9—Permitting the removal of slow order at C.N.R. crossing of the highway at mileage 64·3, Chester Subdivision.

84334 Aug. 9—Permitting the removal of slow order at the crossing of the Dominion Atlantic Railway Co., and Provincial Highway No. 1 west of Brickton, Nova Scotia.

84335 Aug. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Big Valley, Alberta.

84336 Aug. 9—In the matter of application of the C.N.R. for an Order sanctioning and approving the operation of their engines, etc., over a private siding of the Iron Ore Company of Canada in Contrecoeur, Quebec.

84337 Aug. 9—Authorizing the C.N.R. to operate their trains through that portion of the St. Lambert interlocking plant which is the cross-over of the Montreal and Southern Counties Junction of the St. Lambert, Quebec, interlocker.

84338 Aug. 9—Permitting the removal of slow order at the C.P.R. crossing at mileage 20·95 Piles Subdivision, Quebec.

84339 Aug. 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing the proposed location of storage tanks, etc., at Richmound, Saskatchewan.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of Associated Foundry Limited, Vancouver, B.C., for review and cancellation of charge fixed by Order No. 82878, dated January 11th, 1954, for Warden King Limited on Cast Iron Pipe from Montreal, Que., to points in British Columbia.

File No. 40994·44

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Appearances:

J. M. COYNE, for Associated Foundry Limited.

D. R. MCMASTER, Q.C., Warden King Limited.

J. W. G. MACDOUGALL, Canadian National Railways.

G. P. MILLER, Canadian Pacific Railway Company.

JUDGMENT

WARDROPE, A. C. C.

Associated Foundry Limited, of Vancouver, B.C., applies for an Order cancelling Order No. 82878 of January 11th, 1954 insofar as such Order fixed a charge for Warden King Limited, of Montreal, Que., on Cast Iron Pipe from Montreal, Que., to Prince Rupert, Vancouver, and Watson Island, B.C. the same as Agreed Charge applicable to shipments of such Pipe from the Canada Iron Foundries Limited and National Iron Corporation Limited from Toronto, Ont., and Trois Rivieres, Que.

92933—1

The said charge was so fixed under the provisions of sub-section 8, Section 32 of the Transport Act upon the allegation by Warden King Limited that its business would be unjustly discriminated against unless such charge be fixed. The application for the fixed charge was also communicated to the Canadian Freight Association, as representative of the participating carriers in the Agreed Charge, who expressed willingness that the application be granted.

While no extended reference need be made to the Agreed Charge approved by the said Order, inasmuch as our reasons for such approval were set out in our Judgment of February 11th, 1954, (44 J.O.R. & R. 1), it should be noted that the agreed charge was for the purpose of meeting foreign competition at the Pacific Coast, which competition was of sufficient intensity to exclude the shippers at Toronto and Trois Rivieres from selling goods in that market. Incidental to the object aforesaid was the railways' unwillingness to establish competitive tariff rates due to the incidence of the so-called "one-third rule" as required by Section 337 of the Railway Act.

The type of pipe contemplated by the Agreed Charge is for water main purposes. Such pipe, however, is made of cast iron, and the description of the commodity in the agreed charge is sufficiently broad to include all types of cast iron pipe and fittings for same.

The application of Warden King Limited asserted unjust discrimination by reason of the broad description of the commodity, although at no time did it contend that its product was used for the same purpose. It appears that the commodity manufactured and shipped by Warden King Limited is Cast Iron Soil Pipe, which we are now told is manufactured by a different process and is shipped in different sizes and lengths.

In the present application there is no contention that our approval of the agreed charge was in error, but it is contended that some confusion has occurred by reason of the Board's acceptance of the application for a fixed charge on a product which differs in its purpose although made of substantially the same materials.

At the core of the present application is the fact that Associated Foundry Limited is one of two manufacturers of soil pipe and fittings in British Columbia, and that the competition which is encountered by Warden King Limited in the British Columbia market is principally that of the applicant.

As to foreign imports of cast iron soil pipe, it was stated in evidence that such imports in the year 1953 did not exceed 10 per cent of the production of Associated Foundry Limited, although it was stated that imports from foreign producers has been increasing in the past few years.

It was stated in evidence that Associated Foundry Limited obtains its raw materials from eastern points involving long hauls by rail, and that it pays normal tariff rates on its finished products going to market. It was contended that it is unjustly discriminatory to the applicant for Warden King Limited to be assisted by rate reduction to sell in the British Columbia market, and that if such a condition continues to exist it can only result in reduced production in British Columbia with consequent curtailment of the movement of inbound raw materials and a like curtailment of freight revenue thereon.

Counsel for the applicant argues that under sub-section 15 of Section 32 these are relevant considerations affecting particularly the net revenue of the carrier and the effect on the business of any shipper objecting thereto.

I have carefully reviewed the matter, and in view of the basic facts which the Board accepted as justifying approval of the Agreed Charge, namely the meeting of foreign competition, which purpose could not be adequately secured by means of a competitve tariff rate, I am of the opinion that the fixing of a like charge for Warden King Limited was not justified by the circumstances which exist and which are now more fully disclosed. At no time was the

Board made aware that the products of Warden King Limited were in competition with a local producer in the destination area; rather, the Board fixed the charge on the understanding that the product was the same as or similar to that described in the Agreed Charge and was subjected to the same competitive considerations from foreign sources. In the light of the evidence now presented, that feature appears to be erroneous.

It should be noted that the powers granted to the Board, under sub-section 8 of Section 32, to fix a charge must be founded upon a showing of unjust discrimination. The Board has dealt with matters of unjust discrimination in many previous cases, but a basic requirement is that evidence is necessary as to how rates complained of react to the detriment of the applicant and not merely from the difference in the rates charged. Considering the fact that Canada Iron Foundries Limited, and National Iron Corporation, Limited, do not appear to manufacture and ship the same products as manufactured by Warden King Limited and that foreign imports of cast iron soil pipe into the British Columbia market are relatively small; also that a substantial production of cast iron soil pipe occurs in British Columbia, it is evident that the making of the Agreed Charge for the type of pipe to be shipped thereunder does no harm to Warden King Limited notwithstanding the fact that the commodity description in the agreed charge is broad enough to embrace all types of cast iron pipe and fittings.

Counsel for Warden King Limited contended that it would be possible for cast iron soil pipe to be shipped under the agreed charge and if the signatory parties to the agreement should choose to do so it would be detrimental to Warden King Limited and constitute unjust discrimination. There was, however, no evidence to show that such a condition had occurred or was likely to occur.

In the light of the evidence now received I am of the opinion that the parties to the agreed charge should review the commodity description and so amend it as to remove this possibility. An amendment in satisfactory terms should therefore be undertaken immediately and a signed copy thereof submitted to the Board for approval.

It was asserted by the representative of Warden King Limited, and concurred in by Counsel for the Canadian National Railways, that the element of foreign competition justified the continuance of the fixed charge, and that if the said charge was cancelled it would be necessary to negotiate an agreed charge, thereby leaving the situation substantially the same as it now is.

I am not greatly impressed by this submission. If an agreed charge is the only means of meeting a situation of the kind described it will be time enough to consider its merits when it is submitted for approval when other manufacturers of cast iron soil pipe will have notice thereof and be able to make such representations as, to them, may be justified.

I find, therefore, that Order No. 82878, insofar as it fixed a charge for Warden King Limited should be revoked and an Order to that effect will go establishing such revocation as of the 15th day of June, 1954.

OTTAWA, June 2nd, 1954.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 83903

In the matter of the application of Associated Foundry Limited for review and cancellation of the charge fixed by the Board under the provisions of the Transport Act for Warden King Limited by Order No. 82878, dated January 11th, 1954:

File No. 40994·44

TUESDAY, the 8th day of June, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on the 17th day of May, 1954, in the presence of Counsel for the Associated Foundry Limited, Warden King Limited, Canadian National Railways and the Canadian Pacific Railway Company—

It is ordered that Order No. 82878, dated January 11th, 1954, insofar as it fixed a charge for Warden King Limited, be, and it is hereby, revoked, such revocation to become effective the 15th day of June, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

Re-Grouping of telephone exchanges of the Bell Telephone Company of Canada, pursuant to the provisions of Circular No. 267

File 46638·1

JUDGMENT

BY THE BOARD:

The Bell Telephone Company of Canada, hereinafter referred to as the Company, on April 30th, 1954, filed with us Reports numbered 144 to 162 inclusive setting out particulars as to the number of telephones in service as of the six months' ending February 1954 in accordance with the requirements of our Circular No. 267.

Our Judgment of February 13th, 1952, dealing with similar considerations, reported at 41 J.O.R. & R. 393, set out the principles involved, and the following extract therefrom will afford an understanding thereof:

"In the 1950 Judgment authorizing increased rates and charges for exchange services of The Bell Telephone Company of Canada (hereinafter called the company) we approved the division of such rates into ten groups according to the total number of telephones in service. The groups thus authorized are as follows:

Total telephones in local service area	Rate group number
1 to 500	1
501 to 1,000	2
1,001 to 2,000	3
2,001 to 5,000	4
5,001 to 10,000	5
10,001 to 20,000	6
20,001 to 50,000	7
50,001 to 100,000	8
100,001 to 250,000	9
Over 250,000	10

and rates for the various exchange services have been fixed at varying levels accordingly.

It may be noted that the principle of varying exchange rates according to the grouping by total telephones is of long standing, and is used generally throughout this continent. The chief purpose of such grouping is to give recognition to the greater potential value of service afforded by a large number of telephones interconnected through the medium of the larger exchanges. We dealt with this feature in our 1927 Judgment (34 C.R.C. 1) and said:

"Under existing rates, residential telephones in different districts presented some material features of discrimination. The charge for residence exchange service in the City of Ottawa has been running at $2.57 for a one-party line. Ottawa is classed as a city whose telephone stations are over 20,000 and less than 50,000, and from the schedule it appears that cities having as small a number as 2,000 such as Woodstock, Brockville, and Lachine, carry the same rate of $2.57. If we recognize the principle that the telephone user should pay somewhat in proportion to the facilities provided, that is to say, that a person whose telephone is connected with from 20,000 to 50,000 stations has a service more valuable than is provided by a telephone connected with half that number of stations, it is obvious that great discrimination exists as against Woodstock and other places of that size in favour of the city of Ottawa."

At the time of the hearing of the 1950 case, certain of the respondents in the larger exchange areas sought to have the company's application rejected on the grounds that the company had failed to re-group a large number of exchanges in accordance with the group limits prescribed in 1927. In our Order No. 74810 of July 7, 1950, we made it a first consideration that the deferred regrouping be proceeded with in applying the interim rates authorized.

In our final Judgment in the 1950 case we stated:

> "No precise formula has been developed to automatically shift an exchange from one group to another. There must be a period in which the growth or decline of telephone service, over or under group limits, will require study. Acceptance of the grouping plan implies that any departures therefrom tend to indicate unjust discrimination —a condition which the statute charges us to remove. I am of the opinion that telephone companies subject to our jurisdiction, who provide exchange rates on the group plan, should be required to report promptly to us when an exchange has either outgrown its group, or has a total telephone factor less than the group in which it is presently placed, and that such report should indicate clearly what factors thereof warrant a change of such grouping immediately or at some future date. If a change of grouping is then found necessary, appropriate action could be taken to authorize such change."

After having considered the matter of re-grouping, and to avoid further complaints re the failure to re-group as such became necessary, we issued our Circular No. 267 setting out the procedure to be followed. To avoid possible frequent changes which might occur if rates were adjusted whenever an exchange went over or under the group limit, we adopted a tolerance of five per cent over or under such limit before any report was made to the Board.

The Circular provides for the submission of information twice yearly for each exchange having exceeded by five per cent or more the group limit; information respecting the monthly level of telephones in the preceding six months; the nature of the changes by class of service; the trend of growth or decline in business activities, residential accommodation, employment and earnings; and the number of orders for telephone service awaiting completion.

It was directed that a copy of such report be sent concurrently to each municipal or other governing body of the city, town, or other similar area served by the exchange, with the right being reserved to such bodies to make relevant submissions to us concerning the matter within a period of thirty days."

In pursuance of the directions contained in our Circular, copies of the reports were sent to the municipal or other governing body of each exchange area, with the object of enabling such bodies to make any relevant representations to us.

In the present case certain objections have been received which are summarized as follows:

Re. Report No. 161, Windsor, Ont., exchange:

The Corporation of the Town of Riverside: The Municipal-Corporation Township of Sandwich East; The Town of Lasalle; and the Municipality of the Village of St. Clair Beach filed objections. Such objections of the first three above mentioned were confined to a request for deferment of re-grouping on account of a condition of unemployment presently obtaining within the municipalities

The Municipality of the Village of St. Clair Beach objects on the grounds that it is "already paying excessive rates due to mileage charges".

Re. Report No. 150, Ottawa, exchange:

The Municipality of Pointe Gatineau, and the Municipal Corporation of the Town of Gatineau object to re-grouping. The first named asserts that an increase in the number of telephones should result in a decrease in rates, and that increased rates will tend to make telephone service too costly for the average person. The second named asserts that the growth of the Ottawa exchange results in greater revenue to the Company and that the rates paid by the subscribers in the municipality are already high enough.

The objections above summarized may be reduced to the following considerations:

1. The prevalence of unemployment justifies maintaining rates without change.
2. Mileage charges justify no change in the exchange rate grouping.
3. Growth of telephone service should result in lower rates.

In dividing the rate structure for exchange service into rate groups the sole purpose thereof is to recognize the greater value of service afforded by the resultant inter-connection of telephones as the volume thereof increases. Broadly speaking the revenue requirements of the Company are met by spreading the cost of providing service over the Company wide system. Costs of providing exchange service in each locality are not taken into consideration in this concept.

Growth of telephone service in a given exchange tends to increase, not decrease, the cost of supplying the service due to the necessity of inter-connecting all subscribers of the exchange.

More important, however, is the element of unjust discrimination which would flow from any retention of an exchange in a lower or higher rate group when the factor for determining the group level has so changed as to make re-grouping essential. There would be no reasonable grounds to warrant retaining an exchange in a certain rate group if its telephone content placed it in the same category as another exchange of equivalent size.

Concerning the submissions made by the Municipalities in the Windsor area as to unemployment, it must be noted that while such conditions are to be deplored, the factor upon which exchange rates are built does not admit of denial of transfer of the exchange to the next higher rate group. In fact the movement of the Windsor exchange from rate group 7 to rate group 8 involves, for example, an increase of $1.55 per month for individual line business service, and 25 cents per month for comparable residence service. It is the Board's opinion that these increased rates are moderate and must be applied in keeping with the principles and factors of the rate structure, particularly to avoid unjust discrimination which the governing statute requires us to enforce.

The objections made by the Municipality of St. Clair Beach are predicated upon the existence of mileage charges. Mileage charges are applied uniformly throughout the Company's system for service provided beyond the limits of the base rate areas of each exchange. The fact that such charges exist denote the additional lines required to provide the required service and have no relation to the factor of exchange grouping. Again, it would be creating unjust discrimination to absolve one exchange from re-grouping due to the incidence of mileage charges while other subscribers in similar circumstances in other exchanges must bear such charges.

All of these objections have been given careful study but the Board finds itself unable to reconcile the representations with the basis upon which exchange rates are divided according to the total number of telephones in service. Changes in rate groups are not predicated solely upon revenue needs

of the Company, although as previously stated such revenue needs increase with growth of telephone development. The whole purpose of the Board's directions as given in its Circular No. 267 is the avoidance of unjust discrimination. Upon the premise we are obliged to reject the objections made as not being relevant to the matter at issue. No other representations have been received.

The Order which will accompany this Judgment will set out each exchange with its present group number and the group to which it shall be assigned, and will authorize the Company to establish such adjustment by the filing of the appropriate tariff amendments to take effect on not less than thirty days' notice from the date of the filing of such tariff amendments.

HUGH WARDROPE.
A. SYLVESTRE.
H. B. CHASE.

OTTAWA, July 7th, 1954.

ORDER No. 84101

In the matter of change of rate grouping of telephone exchanges of The Bell Telephone Company of Canada pursuant to Circular No. 267:

File No. 46638·1

FRIDAY, the 9th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon consideration of the reports filed herein, copies having been delivered in accordance with Circular No. 267 dated October 18, 1951, and of the submissions made with respect thereto:

It is ordered that The Bell Telephone Company of Canada, in accordance with the Judgment herein dated July 7th, 1954, be, and it is hereby, directed to transfer each of the exchanges listed herein from the group to which it is presently assigned, to the group to which it should be assigned, as hereinafter indicated:

It is further ordered that amendments to tariffs to effect such transfer shall be made effective on not less than thirty days' notice from the date of the filing of such amendments:

Exchange	Present Group No.	Change to Group No.
Atwood	3	4
East Broughton	1	2
Listowel	3	4
Mount Forest	2	3
Ottawa	8	9
Parkhill	1	2
St-Félix de Valois	1	2
Terrebonne	2	3
Windsor	7	8
Woodbridge	2	3

HUGH WARDROPE,
Assistant Chief Commissioner.

In the matter of the application of The Fresh Fruit and Vegetable Receivers Association of Montreal for an Order directing the Canadian National Railways to furnish in Montreal at the fruit terminal so-called, sufficient and suitable track facilities and for other relief.

File No. 26792·17·4

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*
ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
HOWARD B. CHASE, C.B.E., *Commissioner.*

Appearances:

Mr. H. E. COYNE, Q.C., and Mr. JOSEPH SHAPIRO, Q.C., for the Fresh Fruit and Vegetable Receivers Association of Montreal.
Mr. J. W. G. MACDOUGALL, for the Canadian National Railways.
Hon. THOS. VIEN, P.C., Q.C., for the Montreal Fruit & Produce Terminal Co. Ltd.

JUDGMENT

WARDROPE, *Asst. Chief Commissioner.*

This is an application of the Fresh Fruit and Vegetable Receivers Association of Montreal (incorporated by Letters Patent) affiliated with the Canadian Fruit Wholesalers Association, for an Order under Sections 315, 319, and 326 of the Railway Act

(*a*) directing the Canadian National Railways

(1) to furnish at the stopping place in Montreal established for such purposes and commonly known as the "Fruit Terminal" just west of the Guy Street bridge, conveniently adjacent and sufficient and suitable track facilities for receiving, unloading and delivery of carlot traffic consigned to members of the Association.

(2) to abstain from subjecting the members of the Association engaging in business in the said Fruit Terminal building and carlot traffic consigned to such members, to discriminatory service and undue and unreasonable prejudice and disadvantage.

(*b*) declaring illegal, unjustified and unreasonable a toll or charge currently at the rate of $11.00 per car and heretofore at the rate of $9.00 and $6.00 per car charged, levied and collected by the Canadian National Railways through its subsidiary the Montreal Fruit & Produce Terminal Company, Limited (Canadian National Railway Terminals) for service as a common carrier, to wit: for placement of carlot traffic on its tracks adjacent to the Fruit Terminal building the stopping place established by the Railway for the reception, unloading and delivering of such traffic.

The members of the Fresh Fruit & Vegetable Receivers Association, hereinafter called the Applicants, are wholesale carlot receivers of fruit and vegetables. There are some 18 of these members of the Association and they are tenants of the Montreal Fruit & Produce Terminal Company, Limited (hereinafter called the Terminal Company), a wholly-owned subsidiary of the Canadian National Railway Company, hereinafter called the Railway.

The Terminal Company was incorporated by Dominion Letters Patent on July 24th, 1929, with powers to carry on the business of handling fruit, vegetables, dairy products and all produce of the soil of every description,

wholesale or retail. It also has power to act as Merchants, Brokers, Salesmen, Importers, Exporters, Producers, Distributors, Commission Agents and General Traders and to carry on the business of Warehousemen, Cold and Dry Storage Warehousemen, etc. and all business incidental thereto, in short, to carry on all transactions in respect to the trade in fruit, vegetables, dairy and other products of a similar nature.

The Terminal Company building situated just west of Guy Street and north of Trudel Avenue was erected in 1931 for the use of the Terminal Company and its customers. It is made of reinforced concrete, some 680 ft. long by 75 ft. wide, with 8 ft. wide platforms on either side; it has three floors, a basement used for storage, a ground floor used for display of goods and sales rooms, and, on the second floor, offices which are rented to the members of the trade, customers of the Terminal Company and using the facilities of the Terminal Company building.

Exhibit No. 9 was a plan of the facilities of the Terminal Company and shows the location of the above mentioned building and perishable team tracks in its vicinity, the latter with a capacity of some 153 cars. Immediately to the north of the Terminal Company building there is designated what is called track No. 1 north which is a track used solely for the purpose of bringing in cars and unloading them directly on to the platform of the terminal building and thence into storage or for display on the floor of the building. Immediately to the south there are two tracks designated track No. 1 south and track No. 2 south used for the same purpose. These three tracks are never used as team tracks. Unloading from them takes place during the night, and during working hours from 6 a.m. these tracks are empty so that trucks can be backed up against the loading plaforms during working hours in daylight. Unloading of the cars is done by the terminal employees and for each car so unloaded, the Receiver is charged $15.00. The Applicants are making no objection to this charge. It is a charge of $11, formerly $6.00, then $9.00, that is being objected to. This charge is made by the Terminal Company against every car that is placed upon any of the perishable team tracks within the limits of the terminal for unloading, not by terminal employees, but by the consignee himself, and whether or not he takes advantage of the facilities of the building, as will be more fully explained later.

The facilities of the Terminal Company building and the perishable team tracks in the terminal area are available to tenants of the fruit terminal only.

The purpose of the terminal is concisely set forth in Paragraph 1 of the original lease of the premises dated 1st August, 1931 by the Railway to the Terminal Company as follows:

> "That the said Lessee shall use and occupy the said leased premises for the purpose of a fruit warehouse and offices in connection therewith, for increasing and encouraging the wholesale importation over the Canadian National Railways of fruits and vegetables by the fruit trade in the City of Montreal and for the prompt and efficient handling of such fruits and vegetables from railway cars to and through the said demised premises."

The construction of the terminal had the effect of moving what might be termed the centre of gravity of the Fresh Fruit Trade to this point. This is the market where the bulk of this traffic in the Montreal area is conducted and although there are other team track facilities in Montreal, none of the fruit dealers concerned—except for certain types of produce such as bananas—felt they could do business at them. Their cars had to come to where the market was.

As above stated the Terminal Company is a wholly-owned subsidiary of the Railway. The buildings and the lands on which are the tracks are all owned by the Railway and leased to the Terminal Company, although the Railway maintains the track. In this connection at the Hearing, following a helpful suggestion of Senator Vien, Counsel for the Terminal Company, the following statement of facts was agreed upon:

Mr. MacDougall: May it please the Board. The parties hereto with a view to shortening the hearing of witnesses and the adducing of evidence in this case, and without prejudice to the points of jurisdiction raised by counsel for the respondent and the intervenant, submit the following admission of facts:

(1) That the Montreal Fruit and Produce Terminal Company Limited was incorporated by letters patent dated July 24, 1929, under the Dominion Companies Act.

(2) That the incorporation was obtained by the respondent railway Company.

(3) That the capital stock of the terminal company has always been wholly-owned by the respondent Railway Company.

(4) That the provisional directors of the Terminal Company at the time of its incorporation were officers of the respondent railway company.

(5) That the Terminal Company has always had the same directors as the respondent Railway Company except as stated in Paragraph (4) hereof.

(6) That the lands referred to in paragraph (1) of the respondent Railway Company's reply (answer) were owned by the respondent Railway Company at the time the alleged leasing took place and are still owned by the Railway Company subject to whatever rights the Terminal Company has in the alleged leasing agreements.

Mr. MacDougall: (7) The Canadian National Railways submit that the present officers of the Montreal Fruit and Produce Terminal Company Limited appointed by the Board of Directors of the Terminal Company are the following:

W. H. Kyle, Vice-President,
O. A. Boivin, General Superintendent,
W. J. Riesberry, Manager.
A. Bailie, Superintendent.

The only two of these officers who are at the same time officers of the Canadian National Railways are W. H. Kyle and O. A. Boivin. The other two are not officers of the Canadian National Railway Company. Mr. Donald Gordon, President of Canadian National Railways, Canadian National Railway Company, is president of the Terminal Company; D. I. Grant, Q.C., secretary of the Railway Company, is secretary of the Terminal Company and T. J. Gracey, comptroller of the Railway Company, is comptroller of the Terminal Company. The President, Secretary and Comptroller of the Terminal Company have at the same time in the past occupied the same positions with the Canadian National Railway Company.

(8) The Terminal Company employees are hired and discharged by the Terminal Company and are not employees of the Railway Company. They are paid by cheques issued by the Terminal Company or by cash. They are of two types: some are permanent employees and others are temporary. The permanent employees of the Terminal Company participate in the Canadian National Railways' Pension Plan, provided for Canadian National Railways and its subsidiary companies, except United States subsidiaries, and to which these employees and the Terminal Company contribute, but they do not enjoy the benefit of railway seniority, and they are not members of the Railway Unions or any trade Union.

(9) The Terminal Company has not declared nor paid any dividends.

(10) The Terminal Company has provided by its by-laws duly passed for the execution of documents by its officers. From the date of incorporation until the 18th of June, 1935, such authority was contained in By-law No. 1 of the Terminal Company. From the above date to the present, this authority has been contained in General By-law No. 1 of Canadian National Railway Company which the Terminal Company adopted as its own by its by-law dated the 18th of June, 1935. Similar action was taken at that time by all subsidiaries of the Railway Company, so as to provide for the general transaction of their business, including execution of documents.

(11) The minutes of the Terminal Company include general resolutions for carrying on its banking arrangements and appointing its bank and designating signing officers for the Terminal Company's cheques.

(12) The Terminal Company is a validly subsisting corporation and files its own returns Federally and Provincially as required by law of corporations carrying on business.

(13) The Terminal Company pays its business and water taxes in the City of Montreal.

(14) The Canadian National Railway Company, being the owners of the land and building thereon erected, pays the property taxes that are assessed thereon.

(15) The minutes of the Terminal Company show that its directors and officers were properly appointed in the regular way under the provisions of the law.

(16) The internal arrangements for keeping the records and audited accounts of the Terminal Company are similar to those in effect for other subsidiaries of the Canadian National Railways system.

(17) The Terminal Company makes its leases and agreements in its own name, collects its own accounts, pays its own bills from its own bank account and its employees supervise the operation of its premises.

(18) The Terminal Company does not unjustly discriminate among members of the applicant Association in the imposition of charges and the use of the Terminal facilities.

At this point it will be helpful to briefly review the principal reasons stated for the creation of the terminal. Prior to its construction the wholesale fruit trade or a great part of it was carried on in the old Bonaventure Station area at the fruit auction sheds on Mountain Street to the east of Guy Street—not far distant from the present terminal. This was the Fruit Market where the principal sellers and buyers came together. With the growth of the City and the fruit business and the closing of certain streets, the facilities for the trade and the Railway at this point became quite inadequate. All parties concerned felt something had to be done. The result, after consultations and discussions, was the present terminal, and with the new arrangements, it would appear, all concerned seemed satisfied to a degree. There were some complaints from time to time as to the adequacy of the track and unloading facilities, and some additional facilities accordingly from time to time were added. But apparently there were no material complaints about the charges the Terminal Company was making for cars on the perishable team tracks until the original $6.00, then $9.00 charge was finally raised in 1953 to $11.00 as it is today.

The normal handling of carloads of fruit arriving in Montreal for members of the Association (the Applicants) via the Railway is for the cars to be placed at the "hold" yard at Decourcelles St., St. Henri, unless an Order given by the Terminal Company is held by the Railway prior to arrival for placement at the

terminal. In the latter case the cars are moved directly into the terminal for placement at the terminal building or on the perishable team tracks within the terminal, as they may be directed.

A consignee cannot of himself give an order to the Railway to have his car placed in the terminal. He must place his order before four o'clock in the afternoon with the Terminal Company, and the latter, after satisfying itself that all the line haul charges are paid, gives the order to the Railway. The Railway then moves the car into the terminal. No further charges are made except the $11.00 charge of the Terminal Company which immediately attaches itself to the car once it is on the perishable team tracks of the terminal.

The Terminal Company and the Railway maintain this is a charge for the privileges and facilities the Terminal Company offers to the consignee whether or not the consignee avails himself of them. These advantages are stated to be in part as follows: (Exhibit 22).

> "*Unloading Charges.* This charge is for placement on the Montreal Fruit & Produce Terminal Company perishable track and the benefits enjoyed by the receiver through having the cars so placed. Some of the principal benefits are:
>
> (*a*) The advantage of making use of the warehouse market sales floor by bringing samples from the cars onto the sales floor as long as the car remains on the perishable track.
>
> (*b*) It allows the consignee to send merchandise from the car on the perishable track to a public cold storage and bring it back to the warehouse sales floor as occasion demands without further charge.
>
> (*c*) It permits the receiver to release the car and avoid railway demurrage by bringing the balance of staple produce onto the warehouse sales floor where it may remain for a further period of four days free of charge."

Frequently, and more so than in the past the consignee does not use the floor of the terminal building for displaying samples but sells directly from the car and the Applicants in such cases particularly object to the $11.00 charge. The Railway, to this objection, says that in that case the ordinary team tracks elsewhere in Montreal such as at Pointe St. Charles: Ward's team tracks, St. Lambert team tracks, Cartierville team tracks and section 47 and shed 18, Montreal Harbour are available. But the fresh fruit market is at the terminal, state the Applicants, and consequently it is the only location at which their business can be transacted.

A considerable amount of argument was devoted to the legality or otherwise of the lease by the Railway, to the Terminal Company of its tracks and facilities. The Railway contends what was leased was never part of the railway system qua railway. The lands were acquired for the definite purpose of providing this terminal and the leasing arrangements have been approved by Order in Council P.C. 1954-328, 4th March, 1954, under the requirements of Section 23 of the Canadian National Railway Act.

The Applicants question the validity of a lease of railway property and also the last minute approval by the Governor in Council, saying such approval is a condition precedent under the Act. The Railway and the Terminal Company raised the question of jurisdiction of the Board to deal with the matter at all on the grounds that the Terminal Company and the leased premises were no part of the railway system. On the other hand, the Applicants maintained that in any event whether the leasing was legal or not the Terminal Company was clearly the Agent of the Railway under the aforestated statement of facts and that the $11.00 charge is a toll under the definition of "toll" in the Railway Act and was and is illegal because it has not been specified in any tariff filed with respect thereto.

The Board reserved its Judgment on the motion of non-jurisdiction.

From the above it will be seen that two principal matters present themselves for determination

(*a*) Is the Railway furnishing adequate and suitable accommodation under the provisions of section 315 of the Railway Act.

(*b*) Is the $11.00 charge or any part of it a charge for rail services that would make it a toll within the meaning of the Railway Act.

With regard to (*a*) it must be recalled that at the former fruit marketing centre at Mountain Street there were available public team tracks. Placement on these tracks did not, as a consequence, involve any additional payment. In fact there are still team tracks at Bonaventure Freight Station but by tariff action excluded from their use are bulk goods and fruit and vegetables. This exclusion of fruit and vegetables would appear to promote delivery of such traffic at the fruit terminal. Now it becomes evident that in this fruit marketing area largely created by the Railway it no longer provides the ordinary team track facilities for delivery and unloading, firstly, by the establishment of the fruit terminal and, secondly, because of the above tariff action.

However, although the Applicants complained of the existing facilities they did not specifically direct any part of their complaint to the absence at the fruit terminal area of ordinary public team track facilities open not only to themselves but to the shipping public generally. Consequently, unless such a specific complaint is received, I think it would be premature at this time to order the Railway to furnish them.

With regard to (*b*), the $11.00 charge. The Applicants submit this charge is illegal because no tariff has been filed containing such charge, and in that connection refer to Sec. 326, s.s. 5 of the Railway Act re tolls. They also allege that the trucks in question, viz., the perishable team tracks, are railway tracks, notwithstanding the leasing of them to the Terminal Company and consequently are subject to the Railway Act and the jurisdiction of the Board; that once a part of a railway has been constructed by a Dominion railway company as part of its railway its status as part of a railway cannot change unless it is abandoned under the provisions of the Railway Act; that in any event, the Terminal Company is the Agent of the Railway and this charge of $11.00 is a toll charged by the company through its agent—a toll for placement of the car.

Although much of the argument was devoted to the status of the tracks, the primary question we have to decide is whether this charge in whole or in part is a charge for railway services. My opinion is, after giving the matter much thought, that the charge is solely for the use of and the right to use the privileges and facilities of the terminal building and leased premises other than the tracks, and is not in any way in respect of the tracks or otherwise for railway services, and consequently is not a toll under the Railway Act. To get a true picture of the charge I think we must examine the beginnings of the terminal and the inception of the charge. The Railway did not as far as I can ascertain from what was stated devote or set aside any of its then existing public tracks or right of way to or for the purposes of the terminal. It did use some of its lands—not railway lands in public use—and also acquired further lands for the construction of the terminal. On these with leads from its public tracks it constructed the terminal tracks. It constructed the buildings. Having done so it then leased these lands and buildings to its subsidiary, the Terminal Company. Excepted from this original lease of 1931 were the tracks. This latter fact to me is important. Then the Terminal Company fixed its charges. One of its charges was the $6.00 charge now (after an increase in 1947 to $9.00) the $11.00 charge in question. If the Terminal Company had no interest by way of lease in the tracks then it seems to follow no part of the $6.00 charge made by it could have been for their use and must have been solely for the use of and the right to use the privileges and facilities

of the terminal building and leased premises other than the tracks. Looking at the situation as it was when the terminal was constructed and the $6.00 charge was first made, it has not been established, in my opinion, that any part of that charge was in respect of the tracks or for railway services.

However, in 1943 by agreement and lease the Terminal Company acquired the tracks in the terminal although their cost of maintenance was continued by the Railway. The charge remained at $6.00 until 1947 when it was increased to $9.00. I can find no evidence in a perusal of the leases or elsewhere that the $9.00 charge was related in any way to the acquisition by lease in 1943 of the terminal tracks. The increase from $6.00 to $9.00 appears to have been due to increased cost of doing business—something of common public knowledge. Fortifying this is the fact that at the same period in 1947, the Terminal Company made simultaneous increases for other services and facilities to the same customers, i.e. it made provision (as shown by Ex. 27) for the increasing of office floor space from $1.00 to $1.25 and tomato room space from .60 to .75. In other words the increases, in the absence of definite evidence to the contrary, and I can find none, were increases due to general economic conditions. And the clear indication therefore would seem to be they were unrelated specifically to the acquisition by lease in 1943 of the terminal tracks. In 1950 further increases were made with respect to office space and tomato room space, while no change was made in the $9.00 charge or what the Applicants allege is the "placement" charge. Similarly, in 1952 increases were made against the tenants in respect to cellar storage and teaming. Then in 1953 came the final increases to date. The unloading into the warehouse or terminal as has been shown was increased to $15.00, while the former $9.00 charge was increased to $11.00, the one complained of. But at the same time the office floor space rent was increased to $2.00, an increase of 100 per cent over the original charge of $1.00 in 1931 and the tomato room rent to $1.20, also a 100 per cent increase over 1931. I have set all this out in some detail but I think it is helpful in indicating that the charge of $11.00 is just one of several other charges which were increased, not because it or any of them had any relation to the use of railway tracks but because of overall business conditions.

In view of our finding that the $11.00 charge is not a toll within the meaning of the Railway Act, the proposition put by the Applicants that the Terminal Company was the Agent of the Railway does not require determination by this Board as the charge is not within the Board's jurisdiction.

Summing Up:

1. If there is any unjust discrimination against the Applicants it arises out of the lack of public team track facilities at the Bonaventure Station area by reason of the Railways' own actions. On specific complaint the Board will give further consideration to the removing of any such discrimination.
2. The $11.00 charge complained of is not a toll within the meaning of the Railway Act.
3. The Board has no jurisdiction over the terminal facilities for which the $11.00 charge is made.

An Order will go dismissing the application.

OTTAWA, July 9, 1954.

HUGH WARDROPE.

I concur:

H. B. CHASE.

I concur:

A. SYLVESTRE.

ORDER No. 84121

In the matter of the application of The Fresh Fruit and Vegetable Receivers Association of Montreal, under sections 315, 319 and 326 of the Railway Act, for an Order directing the Canadian National Railways to furnish at the Montreal fruit terminal suitable facilities for unloading carload traffic consigned to members of the Association, and declaring unreasonable the current charge of Eleven Dollars per car, assessed by the Montreal Fruit and Produce Terminal Company Limited, for the placement of carload traffic on its tracks adjacent to the fruit terminal building:

File No. 26792·17·4

WEDNESDAY, the 14th day of July, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in the City of Montreal on the 2nd day of March, 1954, in the presence of Counsel for The Fresh Fruit and Vegetable Receivers Association of Montreal, the Canadian National Railways and the Montreal Fruit and Produce Terminal Company Limited—

It is ordered that the said application be, and it is hereby, dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner.

In the matter of the application of Trans-Canada Pipe Lines Limited and Western Pipe Lines, hereinafter called the "Applicants", under sections 10-A, 11 and 12 and other relevant sections of the Pipe Lines Act, for an Order granting leave to the Applicants to construct a pipe line, consisting of one or more lines of pipe, for the transportation of gas from a point on the Alberta-Saskatchewan border, east of the Town of Princess in the Province of Alberta, through or in the vicinity of the Cities of Moose Jaw and Regina, in the Province of Saskatchewan, through or in the vicinity of the Cities of Brandon, Portage la Prairie and Winnipeg, in the Province of Manitoba, through or in the vicinity of the Towns or Cities of Kenora, Port Arthur, Fort William, Nipigon, Schreiber, Marathon, Hawk Junction, Chapleau, Sudbury, North Bay, Huntsville, Gravenhurst, Toronto, Oshawa, Port Hope, Trenton, Belleville, Kingston, Brockville, Morrisburg and Cornwall in the Province of Ontario, thence to the Towns of Dorion and Ste. Anne de Bellevue and the City of Montreal, in the Province of Quebec, including

(a) *a branch line from the City of Winnipeg south to the Town of Emerson, in the Province of Manitoba, on the border between the United States of America and Canada, and*

(b) *a branch line from the Town of Brooklin to the City of Oakville, in the Province of Ontario, and*

(c) *a branch line from the Town of Morrisburg to the City of Ottawa, in the Province of Ontario, and the City of Hull, in the Province of Quebec:*

File No. 45371·20·2

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner,*
HUGH WARDROPE, *Asst. Chief Commissioner,*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner,*
F. M. MACPHERSON, *Commissioner,*
H. B. CHASE, C.B.E., *Commissioner,*
O. A. MATTHEWS, *Commissioner.*

Appearances:

J. ROSS TOLMIE and J. M. COYNE, for Trans-Canada Pipe Lines, Limited and Western Pipe Lines.

DEAN F. CRONKITE, Q.C., for the Government of the Province of Saskatchewan.

F. A. BURGESS, for the Bell Telephone Company of Canada.

DAWSON A. MCDONALD, Q.C., for the City of Montreal.

ALDERIC LAURENDEAU, Q.C., for the Montreal Metropolitan Commission.

J. J. FRAWLEY, Q.C., for the Province of Alberta.

G. S. SAUNDERSON, for Algoma Central and Hudson Bay Railway Company.

CYRIL T. YOUNG, for certain Northern Ontario Municipalities.

Mayor F. O. ROBINSON and Alderman ROY FREEMAN, for the City of Port Arthur.

Mayor GORDON CARSON and Alderman A. F. HAWKINS, for the City of Fort William.

A. M. CHARLESWORTH, for the Corporation of the Toronto Metropolitan Commission.

JUDGMENT

KEARNEY, J., Chief Commissioner:

This application is for leave to construct a main pipe line and ancillary lines thereto for the transportation of natural gas from Alberta eastwards to certain cities in the provinces of Ontario and Quebec, with a branch line from Winnipeg to Emerson on the international border between Manitoba and the United States, all as more particularly set forth in the application.

General outline of the project.

The application was made by Trans-Canada Pipe Lines Limited (hereinafter variously referred to as Trans-Canada, Applicant and Company), and Western Pipe Lines, but at the hearing they asked that the leave to construct be given to Trans-Canada rather than to the two companies jointly or to Trans-Canada in respect of the main line and Western Pipe Lines in respect of the branch to Emerson.

The project has received Canada-wide publicity. When completed, it will be one of the largest and longest gas lines in the world. Because it is the first trans-Canada pipe line to be built, and also because of the magnitude of the financing involved, it has been likened to the building of the Canadian Pacific Railway. To make available, quickly, to more than half of Canada's urban population the newly discovered gas resources of our country is in keeping with national policy and constitutes a challenge to Canadian initiative and ingenuity and bespeaks staunch sponsorship by the Canadian public.

The provinces of Alberta and Saskatchewan, as well as various cities have already given wholehearted support to the application and there was no opposition to it at the hearing, although there was some advocacy of a different route through part of Ontario. It is the only project that has been developed to bring Alberta gas to Ontario and Quebec and intermediate points.

The application represents the amalgamation of two applications previously filed with the Board which have been withdrawn in favour of the one now before us. One of the previous applications was Trans-Canada's proposed all-Canadian line from Alberta to Montreal to market gas entirely in Canada; the other was Western Pipe Lines' proposed line from Alberta to Winnipeg, thence to Emerson. The present project incorporates the main features of both of those proposals, consequently the line will run from Alberta to Toronto and Montreal, with laterals to Oakville and Ottawa-Hull, and a lateral to Emerson to serve adjoining United States areas.

What is presently before us is an initial system which ultimately may grow well beyond its present limits, as and when the supply of gas is enlarged and sales and demand increase; it was described by the Company as a project which contemplates expansion as far in the future as feasibility permits and susceptible of gradual increase to meet increased demands for natural gas.

The Company will initially purchase its gas entirely from Alberta but later may be able to obtain some of its gas requirements in Saskatchewan if and as reserves are developed there. The Alberta gas will be delivered to the Trans-Canada line at the Alberta-Saskatchewan border by The Alberta Gas Trunk Line Company which was recently established by Special Act of the Alberta Legislature. That company will construct, as needed, a trunk line in Alberta to transport the gas to Trans-Canada's line. The permit, hereinafter mentioned, granted to Trans-Canada by the Alberta authorities, provides that Trans-Canada shall take delivery of the gas from The Alberta Gas Trunk Line Company.

The gas will be sold by Trans-Canada to distributing utilities along its route and to industrial plants which are not within franchise areas of distributing utilities, and in addition a maximum of 150,000,000 cubic feet per

day is planned to be sold to Northern Natural Gas Company, a United States corporation, at Emerson, for distribution by Northern Natural in Minnesota, South Dakota, Iowa, Nebraska and Kansas.

There is also, as part of Trans-Canada's over-all system, although not included in this application, the so-called Niagara Pipe Line which we authorized by Orders Nos. 83618, dated April 27, 1954, and 84023, dated June 21, 1954. That line from Niagara to Toronto will initially bring Tennessee gas to the distribution system of Consumers' Gas Company of Toronto but the Niagara line will fit in with the main Trans-Canada line when the latter is constructed and will then be part of Trans-Canada's system for transportation and sale of Western Canada gas to Ontario markets.

Trans-Canada hopes to commence construction early in 1955, deliver gas to Winnipeg and Emerson by November 1955, complete the line to Toronto in 1956 and to Montreal in 1956 or 1957 at the latest. These objectives *per se* appear to be reasonable and attainable.

Permit for removal of gas from Alberta

The Petroleum and Natural Gas Conservation Board of Alberta granted an Export Permit (Exhibit No. 4) to Trans-Canada on May 14, 1954, under authority of an Order-in-Council of the Province of Alberta, dated May 13, 1954. (Exhibit No. 3).

The permit is for twenty-seven years from the date thereof and permits removal by Trans-Canada from Alberta of not more than five hundred and forty million (540,000,000) cubic feet of gas in any one day, not more than one hundred and eighty-three billion (183,000,000,000) cubic feet in any consecutive twelve month period, nor more than four trillion three hundred and fifty billion (4,350,000,000,000) cubic feet during the period of the permit.

The Board stated in the permit that it found that the gas permitted to be removed was surplus to the present and future needs of Alberta and it also designated specific fields from which almost all of the required quantities of gas were to be obtained, the remainder to be obtained from other pools, fields or areas to be designated by that Board before December 31, 1955. The Board also reserved the right to authorize or direct Trans-Canada to acquire in lieu of the gas designated in the permit other gas which reasonably and economically, in the opinion of that Board, may be utilized for the requirements of Trans-Canada.

The permit was also subject to the condition that Trans-Canada "shall satisfy the Board prior to December 31, 1954, that arrangements have been completed for financing the construction of its proposed project and that construction will commence not later than June 1, 1955, unless upon application by Trans-Canada the aforesaid dates are extended by the Board".

We are familiar with the nature of the proceedings before the Alberta Board which resulted in the above mentioned permit and we appreciate the reasons underlying the terms and conditions set forth in the permit, and although it is subject to such terms and conditions it meets our requirements as to proof of permission to remove natural gas from Alberta.

Reserves and availability of gas

In addition to the Reports of The Petroleum and Natural Gas Conservation Board, which were filed as exhibits, and the estimates of reserves therein contained, we heard direct evidence as to such reserves on behalf of Trans-Canada at the hearing. We also have received and studied from time to time other information, data, estimates and reports in respect of such reserves and their

discovery and growth in recent years and we have kept ourselves informed as to the natural gas reserve situation generally in Western Canada and in the areas from which Trans-Canada proposes to obtain its gas supply.

The evidence as to gas reserves is voluminous and I do not think it is necessary to recite or give an analysis of the estimates or to determine with preciseness the volumes of gas which will be available to Trans-Canada. What we as a Board have to be satisfied on, in respect of gas supply, to justify an Order giving leave to construct the pipe line, is that the Company will have available to it an adequate gas supply for its project. Although to a considerable extent we must deal in reasonable probabilities when determining the adequacy of the gas supply, I am fully satisfied that there will be available to Trans-Canada sufficient gas to meet its requirements.

Description of route and facilities

The entire pipe line will be approximately 2,188 miles in length. The route of the main line commences about one mile west of the Alberta-Saskatchewan border and follows generally the route of the main line of the Canadian Pacific railway from Alberta to North Bay, thence south to Brooklin near Toronto; a branch line goes west from Brooklin to Oakville; another branch line goes east from Brooklin following the Canadian National railway along the St. Lawrence River to Montreal; from Morrisburg on the latter line there will be a lateral north to Ottawa and Hull; there will also be a lateral from Winnipeg south to Emerson, as already mentioned, to serve Minneapolis, St. Paul and other adjacent localities in the United States.

At the hearing, Mr. Cyril Young advocated that the main line should follow a northern route in Ontario and go north from Nipigon, follow the Trans-Canada highway through Kapuskasing and Cochrane, thence down to North Bay with a branch from North Bay to Sudbury. That route was advocated with force and sincerity by Mr. Young. It had also been considered by Trans-Canada but the Company stated at the hearing that the route proposed in its application is a preferable one.

Subsequent to the hearing, further submissions were made by Mr. Young and the company and, at the moment, the weight of evidence before us, in my opinion, favours the route proposed by the Company. However, the company, which is naturally anxious to follow the most practical route, has been looking further into the merits of the northern route and if, at any time before construction begins, the company becomes convinced that the northern route should be followed, it would be at liberty to do so, providing the cost of such deviation, taking into account the relative sales potential, would not be greater than the route presently applied for. Moreover, the southern and northern routes are not mutually exclusive and the use of the southern route does not deprive the northern markets of natural gas service since it is possible, as soon as markets justify, to build a spur line running north from North Bay.

The line from Alberta to Winnipeg will be a 36-inch diameter; the lateral from Winnipeg to Emerson, 24-inch; the portion from Winnipeg to Brooklin, 30-inch; Brooklin to Oakville, 18-inch; Brooklin to Montreal, 24-inch; Morrisburg to Ottawa-Hull, 14-inch.

Detailed information was given as to engineering and construction of the line and its initial and potential capacity.

The estimated cost of construction of the line and facilities is $299,139,000. In connection with estimating the cost of large projects, unfortunately in recent years it rarely happens that actual costs are less than the estimated costs and, all too frequently, the latter costs are exceeded. While bearing in mind that we are dealing with estimates, nevertheless, the Board is convinced that such estimates have made reasonable allowance for foreseeable contingencies and have been prepared by skilled and reliable estimators.

I am satisfied, therefore, as to the general location of the line as proposed by the Company, as to its size, engineering and other physical features, as well as the reasonableness of the estimated costs of construction.

Some question was raised as to the adequacy of the diameter of the proposed pipe line. From the Eastern border of Alberta to Winnipeg, the diameter of the pipe line, as previously stated, is to be 36 inches. We know of no pipe line heretofore constructed which is larger than 36 inches and few, if any, even at the present time in the United States, are so large.

With respect to the adequacy of a 30-inch pipe from Winnipeg east, in the United States, even in the service to very heavily populated centres, a 30-inch gas line is regarded as a large line. Relatively speaking, taking into account the probable rates of load development, the density of the population, even at the more easterly end of the Canadian pipe line, is not more than that which is commonly served by a 30-inch pipe line in the United States. Moreover, by the use of additional pumping stations, the daily through-put of the proposed pipe line can be built up to deliver over 500 million cubic feet per day to Eastern Canada and further additional capacity can be obtained by the means of loop lines. Under all the circumstances I see no reason for the Board to require the company to build an original pipe line of greater diameter than that presently proposed, particularly as we have not before us evidence of such character as to warrant a finding by the Board that a pipe of larger diameter is necessary or desirable.

In addition, the ready made markets in Canada are not extensive, and when looking to the future, the company will have to rely to a considerable extent on the development of potential markets into sales in order to utilize the full capacity of the line as presently proposed and it would be dangerous to burden the company, particularly in its infancy, with the added costs of a line of larger diameter. It may occur, and it is even hoped that, some day, the capacity of the line will require to be augmented; but, in such an event, the added costs for providing such augmentation will be more than compensated for by the greater facility with which it could be then financed as compared with the present.

Moreover, all features of the project, including the diameter of the line from Winnipeg east is under constant review and, as Mr. Tolmie of Counsel for the Applicants stated:

> "If, as a result of those further studies and a consideration of marginal markets, possibly additional gas, it is decided by Trans-Canada to amend their application seeking a large diameter line from Winnipeg east to Toronto, then we would seek an amendment to the line in the same way."

Financial Responsibility of the Applicant

Section 12(3) of the Pipe Lines Act enjoins us on an application for an Order granting leave to construct a pipe line to have regard to the financial responsibility of the applicant.

Counsel for Trans-Canada stated that its sponsors are:

1. Canadian Delhi Petroleum Ltd.
2. The Calgary & Edmonton Corporation Limited.
3. International Utilities Corporation.
4. Anglo-Canadian Oil Company Limited.
5. Wood, Gundy & Co. Ltd.
6. Nesbitt, Thomson and Company Limited.
7. Osler, Hammond & Nanton Limited.

Mr. Natelson, partner in Lehman Bros., New York, gave evidence that his firm has been engaged in or has been associated with practically every major pipe line operation in the United States in financing one or more of its development stages, and his opinion, based upon the information available to his firm and the estimates of income and costs of the line in operation, is that the line is economically feasible and can be successfully financed. He stated that what is presently planned is to follow the general pattern of financing new construction in natural gas pipe lines with a capitalization consisting of 75 per cent in first mortgage bonds, 12½ per cent debentures or notes convertible at the option of the company into preferred stock and 12½ per cent common stock.

Mr. Nesbitt, President of Nesbitt, Thomson and Company, Limited, also supported the proposed financial set-up and stated that his company is convinced that when contracts for the sale of Trans-Canada's gas are developed, there will be all the necessary elements to create marketable securities.

Mr. Ratcliffe, President of McLeod, Young, Weir and Company, stated that his company feels that with necessary permits and firm contracts for sale of a substantial amount of the gas, the various issues can be sold. He supported generally the views of Messrs. Natelson and Nesbitt.

Subject to the Company establishing at a later date that satisfactory financial arrangements for raising the money necessary for construction of the line have been completed, I am satisfied as to its financial responsibility.

Economic feasibility of the line; markets.

Extensive evidence was given as to the feasibility of the project, including evidence as to the volume of gas to be taken year by year, estimated sales in the various areas to be served, estimated average sales price to distributors by rate zones, proposed rates to distributors, tentative prices to be paid for the gas by Trans-Canada, markets, estimated revenues and sales, income statements and balance sheets.

The territory proposed to be served includes nearly all Canadian cities between Alberta and Montreal, including the metropolitan areas of Montreal, Toronto, Hamilton, Ottawa, Winnipeg and Regina; also Port Arthur, Fort William, Sudbury, Sturgeon Falls and North Bay. The line will pass through important mining and industrial regions in Ontario and will also serve communities in south western Ontario now using gas. Between Toronto and Montreal, the line will serve industrial cities along the shore of Lake Ontario and the St. Lawrence River. Some extent of the population along the route of the line is indicated by the fact that a band five miles on each side of the line contains more than 50 per cent of the urban population of the provinces of Saskatchewan, Manitoba, Ontario and Quebec. The members of the Board are of course quite familiar with the Canadian areas to be served.

The lateral from Winnipeg to Emerson will supply gas to Northern Natural for distribution in the areas which it serves in the United States. Evidence was to the effect that Northern Natural can initially take amounts in the order of one hundred million (100,000,000) cubic feet per day and within two or three years increase them to one hundred and fifty million (150,000,000) cubic feet per day on a 100 per cent load factor. One hundred million (100,000,000) cubic feet per day is only approximately 10 per cent of Northern Natural's pipe line capacity. Northern Natural had a sales contract with Western Pipe Lines before Trans-Canada and Western joined forces, and it is willing to negotiate a new contract with Trans-Canada.

When considering whether or not the project is feasible we must not only look at past experience in the natural gas pipe line field and established facts of the present and past but we must also look into the future for the next

twenty years or more and consequently our opinion as to feasibility of the project must to some extent be based on and influenced by the reasonable probabilities of the future as we see them and as they have been appraised by others whose views have been made known to us.

Proof of negotiated contracts for same of gas to distributors and proof of completion of arrangements for financing construction of the line still remain to be established to our satisfaction. If the Company within a reasonable time is unable to accomplish these things, doubt would thereby be cast on the feasibility of its project, but assuming that the Company will be able to negotiate the sales contracts and complete the arrangements for financing construction, the project in my opinion has been shown to be feasible.

The Emerson lateral.

In connection with the above mentioned line, Mr. Tolmie, of Counsel for the Applicant, stated:

> "The Emerson (lateral) is not a separate line and it, of course, cannot be proceeded with or even contemplated, by itself. It may be that it can come in at the beginning as an added feature and assist greatly in the financing towards the initial return."

We noted that the price to be paid Trans-Canada at Emerson by Northern Natural is 34¢ per 1,000 cubic feet and is 2¢ per 1,000 cubic feet less than the anticipated price to gas distributors in Winnipeg, but the lower price at Emerson is predicated upon 100 per cent load factor, which is not the case at Winnipeg; and, if it were, the Winnipeg price might be less and certainly would not be greater, than at Emerson.

I feel that this branch, if and when consummated, will help to improve the economics of the main line, as it will provide an outlet to available markets and distributing facilities in the United States and result in sales revenue before the main line east of Winnipeg is completed. This branch may also be helpful in the financing of the line and in the end result may effect a reduction in the laid-down price of the gas in Eastern Canada. This assumes, of course, that licences will be granted in due course under the Electricity and Fluid Exportation Act, R.S.C. 1952, c. 93, and that necessary authorization of United States authorities will be obtained.

Northern Natural filed an application for permission to transmit gas into the United States through an extension of the Emerson branch but Trans-Canada's application before this Board was not sufficiently advanced to permit Northern Natural to submit the required evidence before the Federal Power Commission and the latter recently dismissed the application without prejudice. It is the intention, however, of Northern Natural, as soon as the application before us is sufficiently advanced, to renew its above mentioned application before the appropriate United States authorities.

General Conclusions.

Counsel for the Applicants at the hearing recognized that since financial arrangements are not as yet susceptible of completion, this Board could not at this time grant a permit other than what might be called an "interim" or "deficiency" permit. Moreover, Mr. Tolmie, of Counsel for the Applicants,

stressed the sequence which events must follow in order to permit of the project being realized; at pp. 3509 and 3510 of the Transcript, he said:

> "In the present application we would ask that if the Board is satisfied on—
>
> (1) the issuance to Trans-Canada and Western of all the necessary governmental permits,
>
> (2) the adequacy of the gas reserves,
>
> (3) the engineering and construction data on the line, and
>
> (4) the general proof of markets,
>
> an Order issue with the requirement that the Company return to the Board prior to December 31, 1954, and prove that contracts have been entered into with utility companies to market sufficient gas to meet the financial commitments of the line, and that the necessary arrangements have been completed for raising the finances. In this way, and only in this way, can definitive contracts and firm underwriting commitments be made."

and again, at pages 3930 and 3931:

> "In view of that position and that very necessary by the nature of the thing confirmation by the final acid test of financing we would urge that the Board, after due regard to the evidence which we have submitted with regard to the necessity for all government permits in order to enable the final steps to be taken, have regard to the nature of the permit granted by Alberta and that we not be given a lesser form of permit from this Board; otherwise, we are in a position of not having the second step necessary to pursue the third step, namely, contracts in order to get the fourth step, namely financing."

Having given due consideration to all the evidence before us and taking into account the time element which is a major factor in this case, and the importance which the Canadian public attaches to the realization of the project before us, in my opinion, it is in the public interest that a permit to build the line be granted. I am prepared to grant it subject to the condition that Trans-Canada satisfy this Board prior to December 31, 1954, that satisfactory arrangements have been completed for financing the construction of the line and that any licences which may be necessary under the Electricity and Fluid Exportation Act have been or will be granted; construction to be completed on or before December 31, 1957. An Appropriate Order will be issued accordingly.

Commissioners MacPherson and Chase are presently absent from Ottawa and consequently are not available to attach their signatures to this Judgment but they have authorized me to state that they concur.

JOHN D. KEARNEY.

I concur:

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

O. A. MATTHEWS.

OTTAWA, July 24, 1954.

ORDER No. 84220

In the matter of the application of Trans-Canada Pipe Lines Limited and Western Pipe Lines, hereinafter called the "Applicants", under sections 10A, 11 and 12 and other relevant sections of the Pipe Lines Act, for an Order granting leave to the Applicants to construct a pipe line, consisting of one or more lines of pipe, for the transportation of gas from a point on the Alberta-Saskatchewan border, east of the town of Princess in the Province of Alberta, through or in the vicinity of the cities of Moose Jaw and Regina in the Province of Saskatchewan, through or in the vicinity of the cities of Brandon, Portage la Prairie and Winnipeg in the Province of Manitoba, through or in the vicinity of the towns or cities of Kenora, Port Arthur, Fort William, Nipigon, Schreiber, Marathon, Hawk Junction, Chapleau, Sudbury, North Bay, Huntsville, Gravenhurst, Toronto, Oshawa, Port Hope, Trenton, Belleville, Kingston, Brockville, Morrisburg and Cornwall in the Province of Ontario, thence to the towns of Dorion and Ste. Anne de Bellevue and the City of Montreal, in the Province of Quebec including

(a) a branch line from the City of Winnipeg south to the town of Emerson in the Province of Manitoba on the border between the United States of America and Canada, and

(b) a branch line from the town of Brooklin to the City of Oakville in the Province of Ontario, and

(c) a branch line from the town of Morrisburg to the City of Ottawa in the Province of Ontario and the City of Hull, in the Province of Quebec:

File No. 45371·20·2

SATURDAY, the 24th day of July, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at a sitting of the Board held in Ottawa on the 15th, 16th and 17th days of June, 1954, in the presence of Counsel and representatives of Trans-Canada Pipe Lines Limited, Western Pipe Lines, the Government of the Province of Saskatchewan, the Bell Telephone Company of Canada, the City of Montreal, the Montreal Metropolitan Commission, the Province of Alberta, the Algoma Central and Hudson Bay Railway Company, Northern Ontario Municipalities, the City of Port Arthur, the City of Fort William and the Corporation of the Toronto Metropolitan Commission and others—

It is ordered that, subject to Trans-Canada Pipe Lines Limited satisfying the Board prior to December 31, 1954, that satisfactory arrangements have been completed for financing the construction of its proposed pipe line and that any licences which may be necessary under the Electricity and Fluid Exportation Act have been or will be granted, leave be, and it is hereby granted to Trans-Canada Pipe Lines Limited to construct a pipe line consisting of one or more lines of pipe for the transportation of gas from a point on the Alberta-Saskatchewan border, east of the town of Princess in the Province of Alberta, through or in the vicinity of the cities of Moose Jaw and Regina in the Province of Saskatchewan, through or in the vicinity of the cities of Brandon, Portage la Prairie and Winnipeg in the Province of Manitoba, through

or in the vicinity of the towns or cities of Kenora, Port Arthur, Fort William, Nipigon, Schreiber, Marathon, Hawk Junction, Chapleau, Sudbury, North Bay, Huntsville, Gravenhurst, Toronto, Oshawa, Port Hope, Trenton, Belleville, Kingston, Brockville, Morrisburg and Cornwall in the Province of Ontario, thence to the towns of Dorion and Ste. Anne de Bellevue and the City of Montreal, in the Province of Quebec, including

(*a*) a branch line from the City of Winnipeg south to the town of Emerson in the Province of Manitoba on the border between the United States of America and Canada, and

(*b*) a branch line from the town of Brooklin to the City of Oakville in the Province of Ontario, and

(*c*) a branch line from the town of Morrisburg to the City of Ottawa in the Province of Ontario and the City of Hull, in the Province of Quebec;

the general location of the pipe line being as shown on the map dated September, 1951, filed with the Board under file No. 45371·20·2; the said pipe line to be constructed and completed on or before the 31st day of December, 1957, unless upon application by Trans-Canada Pipe Lines Limited the aforesaid dates for satisfying the Board with regard to the arrangements for financing the construction or for completion of the line are extended by the Board.

JOHN D. KEARNEY,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER No. 84359

In the matter of the application of Thomas' Canning Company, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 11th day of August, A.D., 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for Thomas' Canning Company the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 84376

In the matter of the application of the Canadian Freight Association, dated July 2nd, 1954, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated July 2nd, 1954, between The Algoma Central and Hudson Bay Railway Company, Canadian National Railway Company, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Essex Terminal Railway Company, The Grand River Railway Company, The Lake Erie and Northern Railway Company, The London and Port Stanley Railway, The New York Central Railroad Company, Ontario Northland Railway, The Toronto Hamilton and Buffalo Railway Company, Wabash Railroad Company and Saskatchewan Co-Operative Creamery Association Limited on butter, carloads, from stations in the Provinces of Alberta, Manitoba and Saskatchewan to points in the Provinces of Ontario and Quebec:

File No. 40994·63

TUESDAY, the 17th day of August, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge on file with the Board under file No. 40994·63, between the parties described in paragraph A thereof, applying on butter, carloads, from the stations and/or places specified in paragraph C(1) of the said agreed charge to stations and/or places specified in paragraph C(2) thereof, be, and it is hereby, approved, and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 5th day of July, 1954, and to continue in effect subject to Condition 6 thereof.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 84380

In the matter of the application of the Canadian Freight Association, dated July 9, 1954, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated July 9th, 1954, between The Algoma Central and Hudson Bay Railway Company, The Alma & Jonquieres Railway Company, British Columbia Electric Railway Company Limited, Canadian National Railway Company, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Dominion Atlantic Railway Company, The Essex Terminal Railway Company, The Grand River Railway Company, The Lake Erie and Northern Railway Company, The London and Port Stanley Railway, Napierville Junction Railway Company, The New York Central Railroad Company, Ontario Northland Railway, Quebec Central Railway Company, The Thousand Islands Railway Company, The Toronto, Hamilton and Buffalo Railway Company, Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee), Wabash Railroad Company and Canadian Forest Products Ltd., on Hardboard, Composite Board and Doors faced with Hardboard, from New Westminster, B. C., and Vancouver, B.C., to points in the Provinces of New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island and Quebec:

File No. 40994·64

THURSDAY, the 19th day of August, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge on file with the Board under file No. 40994·64, between the parties described in paragraph A thereof, applying on Hardboard, Composite Board and Doors faced with Hardboard, from the stations and/or places specified in paragraph CI of the said agreed charge to stations and/or places specified in paragraph C2 thereof, be, and it is hereby, approved and that the date as from whch the said agreed charge shall be deemed to have become operative is hereby fixed as the 12th day of July, 1954, and to continue in effect subject to Condition 7 thereof.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 84411

In the matter of the application of the Express Traffic Association of Canada, under section 365 of the Railway Act, for approval of proposed Supplement No. 6 to Express Classification No. 9, on file with the Board under file No. 4397·137:

TUESDAY, the 24th day of August, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPERSON, *Commissioner.*

Whereas notice has been given by The Express Traffic Association of Canada in the Canada Gazette, as required by sections 325 and 365 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections, if any, be filed with the Board within thirty days; no one offering any objection;

And upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Express Classification for Canada No. 9 on file with the Board under file No. 4397·137, be, and it is hereby, approved.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84340 Aug. 9—Authorizing the City of Montreal to construct Cavendish Boulevard across the C.P.R., Montreal, P.Q.

84341 Aug. 9—Approving operation of C.P.R. trains over the private siding serving Kralinator Limited in the Manchester Industrial Area, Calgary, Alta.

84342 Aug. 9—Authorizing the C.N.R. to replace the mechanical interlocking plant at the crossing of their railway and the railway of the C.P.R. at West Tower, Portage la Prairie, Man.

84343 Aug. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tank at Flin Flon, Man.

84344 Aug. 9—Permitting the removal of slow order at C.N.R. crossing west of the station at McWatters, Que.

84345 Aug. 10—Authorizing the C.N.R. to relocate the gate at the crossing of Vinet Street, Montreal, P.Q., etc.

84346 Aug. 10—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 8.

84347 Aug. 10—Recommending to the Governor in Council for sanction By-law respecting vehicular traffic on the Interprovincial Bridge between Ottawa, Ontario and Hull, Que. (The Ottawa Northern and Western Railway Company).

84348 Aug. 10—In the matter of the Regulations for the Transportation of Explosives and other dangerous articles in Rail Freight and Rail Express Service.

84349 Aug. 10—In the matter of the Regulations for the Transportation of Explosives and other Dangerous Articles in Rail Freight and Rail Express Service.

84350 Aug. 10—Authorizing the N.B. Department of Public Works to relocate the highway where it crosses the C.N.R. at mileage 98·2 Bathurst Subdivision, County of Restigouche, N.B.

84351 Aug. 11—Permitting the removal of slow order at C.N.R. crossing north of Severn, Ont.

84352 Aug. 11—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84353 Aug. 11—Authorizing the City of Kitchener to construct the highway known as Henry Strum Boulevard, across the C.N.R. in Kitchener, Ont.

84354 Aug. 11—In the matter of consideration of the installation of automatic protection at the crossing of the C.N.R. and Martin Street, Milton, Ont.

84355 Aug. 11—Approving Supplement to Service Station Contract between The Bell Telephone Co. of Canada and the Rosedale Rural Telephone Company Limited.

84356 Aug. 11—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and the Mansonville Utilities Limited.

84357 Aug. 11—In the matter of the application of the Town of Melfort, Sask., for an Order authorizing the construction of Stewart Avenue across the C.N.R.'s industrial spur in the said Town.

84358 Aug. 11—Authorizing the C.N.R. to operate the bridge over La Tortue River, Que.

84359 Aug. 11—In the matter of the application of Thomas' Canning Company, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board.

84360 Aug. 12—Authorizing the C.N.R. to operate their trains through the interlocking at the drawbridge at Bala Park, Ont.

84361 Aug. 12—Authorizing the C.N.R. to operate their trains through the interlocking at the drawbridge at Gamebridge, Ont.

84362 Aug. 12—Permitting the removal of slow order at C.N.R. crossing of St. Francois Street, east of the station at La Tuque, Que.

84363 Aug. 12—Authorizing the City of Fort William to construct Northern Avenue across the C.N.R. in the said city.

84364 Aug. 12—Approving operation of C.P.R. trains over private siding of McColl-Frontenac Oil Company Limited, in the Town of Vulcan, Alta.

84365 Aug. 12—Authorizing the C.N.R. to reconstruct the approaches to the bridge over the Still River, Ont.

84366 Aug. 12—Rescinding Order No. 69923, dated December 16, 1947, which approved plan submitted to the C.N.R. by Barringham Rubber and Plastics Limited, showing the proposed location of storage tanks, etc., at Oakville, Ont.

84367 Aug. 12—Permitting the removal of slow order at C.N.R. crossing of Black Bridge Road, west of Stoney Creek, Ont.

84368 Aug. 12—In the matter of the application of the C.N.R. for approval of plan showing the automatic protection as installed at the crossing of Highbury Ave., London, Ont.

84369 Aug. 12—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tanks, etc., at Neepawa, Man.

84370 Aug. 13—Requiring the C.P.R. to install protection at crossing of First Street, London, Ont.

84371 Aug. 13—In the matter of the application of the C.P.R. for an Order authorizing it to operate over the siding serving Canadian Western Pipe Mills Limited, Vancouver, B.C.

84372 Aug. 13—In the matter of the installation of protection at the crossing of the C.P.R. and John and Wellington Streets, in the City of Sault Ste. Marie, Ont.

84373 Aug. 13—Permitting the removal of slow order at C.N.R. crossing of 5th Avenue, at Ville St. Pierre, Que.

84374 Aug. 13—Authorizing the C.N.R. to reconstruct the bridge over Meade Creek, B.C.

84375 Aug. 13—In the matter of the application of the C.N.R. for an Order approving the use of the Uniform Code of Operating Rules, with modifications indicated, on its Montmorency Subdivision.

84376 Aug. 17—In the matter of the application of the Canadian Freight Association, dated July 2nd, 1954, for approval of an Agreed Charge dated July 2nd, 1954, between The Algoma Central and Hudson Bay Railway Company and other railways and Saskatchewan Co-Operative Creamery Association Limited on butter, carloads, from stations in the Provinces of Alberta, Manitoba and Saskatchewan to points in the Provinces of Ontario and Quebec.

84377 Aug. 18—Approving plan showing the relocation of Western Pipe Lines' company pipe line within the Township of Nelson, County of Halton, Ont.

84378 Aug. 19—Approving location of storage tanks, etc., of Shell Oil Company of Canada Limited near the C.N.R. tracks at St. James, Man.

84379 Aug. 19—Approving proposed location of unloading facilities, for the handling and storage of inflammable liquids of R.C.A. Victor Company Limited, near the C.N.R. tracks at Prescott, Ont.

84380 Aug. 19—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated July 9th, 1954, between certain carriers and Canadian Forest Products Ltd., on Hardboard, etc., from New Westminster, B.C., and Vancouver, B.C., to points in the Provinces of N.B., Nfld., N.S., Ont., P.E.I. and Que.

84381 Aug. 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tank at Sutton, Ont.

84382 Aug. 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Mallaig, Alta.

84383 Aug. 19—In the matter of approval of plan submitted to the C.N.R. by McColl-Frontenac Oil Company Limited, showing the installation of storage tanks, etc., at St. James Man.

84384 Aug. 19—Permitting the removal of slow order at C.N.R. crossing of Bowesville Road, Ottawa, Ont.

84385 Aug. 19—Authorizing the California Standard Company to construct its pipe line across the C.N.R. east of Acheson, Alta.

84386 Aug. 19—Restricting the speed of C.P.R. trains at crossing of Highway No. 7, at mileage 0·09 Nephton Subdivision, Ont.

84387 Aug. 19—Authorizing the C.N.R. to operate the bridge over the Moira River, Ont.

84388 Aug. 19—Approving operation of C.P.R. trains over private siding serving Crane Limited, Calgary, Alta.

84389 Aug. 19—Authorizing the C.P.R. to remove the agent at Ensign Station, Alta.

84390 Aug. 19—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Davis Telephone System.

84391 Aug. 19—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

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In the matter of the application of the Canadian Passenger Association, dated May 13, 1954, and its member lines mentioned therein, for an Order rescinding Order No. 75234, dated September 22, 1950, re commutation fares.

File No. 29984·18

and

In the matter of the application of the Oakville Commuters Association complaining that commutation train service presently provided by the Canadian National Railways between Toronto-Oakville, and Montreal-Ste. Anne de Bellevue and Montreal-St. Eustache-sur-le-Lac unjustly discriminates against the Toronto-Oakville area in favour of the other areas, and for an Order directing Canadian National Railways to provide additional commutation train service between Oakville-Toronto.

File No. 12758·120

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

Appearances:

F. D. TURVILLE, Q.C., for the Oakville Commuters Association.
HUGH S. O. MORRIS, President, Oakville Commuters Association.
F. J. CORNISH, Q.C., in person.
J. W. G. MACDOUGALL and W. G. BOYD, for the Canadian Passenger Association and the Canadian National Railways.

95112—1

K. D. M. SPENCE, Q.C., and G. P. MILLER, for the Canadian Passenger Association and the Canadian Pacific Railway Company.

CUTHBERT SCOTT, Q.C., and KENNETH H. LUNDMARK, for the New York Central Railroad Company.

F. D. TOLCHARD and N. D. WILSON, for the Toronto Board of Trade.

JUDGMENT

KEARNEY, J., Chief Commissioner:

It was obvious that hearings of the above-mentioned applications would have to be held in several localities in order to deal fully with the matters in issue and the Board consequently notified the parties that such hearings would be held in Toronto in June, Montreal in September, and elsewhere, if necessary, later. The hearing at Toronto was held on June 21, 22 and 23 for the purpose of dealing with the applications insofar as they related to commutation train services and fares in the Toronto area. At that hearing a brief on behalf of the Toronto Board of Trade, dealing with the broad question of commutation services in the Toronto area, was also presented.

I shall deal first with the application of the Oakville Commuters Association, hereinafter sometimes referred to as the Oakville application, in respect of commutation train service, and then deal with the application of the Canadian Passenger Association in respect of commutation fares. The brief of the Toronto Board of Trade was not related particularly to the Oakville application but was more concerned with the matter of commutation fares and extension of commutation services in the Toronto area.

THE OAKVILLE APPLICATION

This application was in effect a complaint that commutation train service presently provided by Canadian National Railways between Toronto-Oakville and Montreal-Ste. Anne de Bellevue and Montreal-St. Eustache unjustly discriminates against the Toronto-Oakville area in favour of other areas. This complaint was coupled with a request that the Board direct the railway to provide additional commutation train service between Oakville-Toronto.

The Canadian National is the only railway providing commutation service in the Toronto-Oakville area. There are two regular commuters' trains each morning and evening. The morning trains, Nos. 74 and 76, originate at Hamilton. They leave Oakville at 5.47 and 6.32 Standard Time (all times herein used are Standard Time, but the time of the two regular commuter trains advances in the summer time to Daylight Saving Time, whereas most regular trains stay on Standard Time) arriving at Toronto at 6.35 and 7.30. The corresponding evening trains, Nos. 79 and 81, leave Toronto at 4.20 and 5.20. These are the only regular commuter trains between Toronto and Oakville. The distance is 21·6 miles. The running time of each of these trains is somewhat less than sixty minutes. They stop at stations en route, which are comparatively close to each other, one, one and a half and two miles apart.

In addition to the regular commuter trains there are regular morning passenger trains, including the following: No. 14, due at Oakville at 8.18, which runs from Chicago and stops at Oakville only when there are passengers detraining from Sarnia and west—when it does stop it picks up commuters for Toronto; No. 94 from New York, due at Oakville at 7.21, at Toronto at 8.00; here it may be mentioned that Canadian Pacific train No. 712 is due at Oakville at 6.59 a.m., it is an international train and does not pick up commuters. The evidence was that the international trains are frequently late both at Oakville and Toronto.

In the evening, in addition to the regular commuters' trains from Toronto at 4.20 and 5.20, there is No. 5 leaving Toronto at 6.00—no other train until 11.55 p.m.; there are also two other regular through passenger trains which stop at Oakville only to detrain or pick up through passengers, and certain trains to New York and Chicago which do not carry commuters.

The home terminal of the regular commuter trains is Hamilton and the trains and locomotives are serviced there and lay over there at night. There are no facilities at Oakville for servicing trains and locomotives. The principal carryings on these trains are between Toronto-Oakville and intermediate points with only light traffic originating or terminating between Hamilton and Oakville.

The smaller of the two commuter trains has a locomotive and seven cars, the larger a locomotive and thirteen cars. The equipment heretofore in use is old, but modernized all-steel coaches are about to be put in service.

The section of line between Hamilton and Toronto was described by railway witnesses as the heaviest travelled sub-section in Canada with 18 regular passenger trains per day in each direction and approximately the same number of freight trains, including time freights. The capacity of the Toronto Terminal is also a factor because track occupancy is heavy in the Terminal during the periods most suitable for commuters.

The alternative transportation services between Oakville-Toronto are bus and private cars. The buses run about every 15 minutes during rush periods.

Mr. Morris, President of the Oakville Commuters' Association and the only witness who gave evidence for the Association, stated that he believed that at present approximately 200 Oakville commuters use the existing services daily. However, there was also evidence that about 1,600 or 1,700 commuters altogether travel by these trains, the other commuters being from other localities along the line. The approximate population of the areas served by the trains was given by Mr. Morris as 113,000. He was of the opinion that many additional commuters would use the trains if an improved service were provided.

Comparisons were made between the Oakville-Toronto commuters' service and that given between Montreal-St. Eustache and Montreal-Ste. Anne above mentioned. The Montreal area admittedly has superior equipment and more trains than the Toronto-Oakville area.

On the St. Eustache line the Canadian National operates six trains into Montreal from St. Eustache during the morning rush hours and six trains out in the afternoon, as well as two evening trains for commuters. The volume of traffic on this line runs to approximately three and a half million rides per year.

Between Montreal and Montreal North there are two trains into Montreal in the morning and two trains out in the evening for commuters. The volume there is about 320,000 rides per year.

Between Montreal and St. Hilaire there are two trains in the morning and two in the evening for commuters, with carrying of about 540,000 per year.

On the Montreal-Vaudreuil line there are five trains inbound to Montreal in the morning, four out in the afternoon and two in the evening, with carryings of approximately 600,000 rides per year.

On the Montreal-Mount Royal operation there are two commuter trains in the morning and two in the evening, with annual carryings of approximately 535,000.

In addition to the above-mentioned trains, there are of course Canadian Pacific trains in the Montreal area.

The Toronto-Oakville commuter service, two trains in the morning and two in the evening, have carryings of about half a million annually.

Track occupancy and frequency of trains of all kinds are much less in the Montreal area than on the Hamilton-Toronto line.

Mr. Morris also made comparisons between the populations served by the Montreal commuter services and the Toronto-Oakville services respectively.

On behalf of the Canadian National there was evidence *inter alia,* that the running times of the Toronto-Oakville commuters' trains compare favourably with the times of the Montreal trains and because of the numerous station stops cannot be improved; that the Hamitlon-Toronto Subdivision is so heavily travelled and the Toronto Terminal so occupied that it is most difficult to add commuters' trains between Toronto-Oakville; that to have the terminal of the trains at Oakville rather than at Hamilton would not result in economies and would create undesirable operating conditions.

Comparisons between the Toronto-Oakville and the Montreal areas were developed at some length but I think the above gives a fair picture of the situation.

Counsel for Oakville submitted in argument that there is unjust discrimination as against the Oakville commuters, or would-be commuters, in favour of the St. Eustache and Ste. Anne commuters in respect of (a) frequency of train service, and (b) equipment. He agreed that there is no claim of discrimination or preference as between one place and another within the Toronto-Oakville area.

As to the complaint in respect of equipment I feel that the new coaches for the Toronto-Oakville line will be the equivalent of the coaches in the Montreal areas and will remove any cause for complaint in respect of a difference in equipment.

As to service. Admittedly the commuter service given to Ste. Anne and St. Eustache is different to that given to Oakville, as the former has more frequent trains at more convenient times. However, a difference in treatment is not necessarily an unjust discrimination or an undue preference.

Although a difference in treatment has been established it has not been shown that any part of the Montreal area has profited at the expense of Oakville or that Oakville or the commuters there have been injured by the service given in the Montreal area. Furthermore, the operating conditions in the Toronto and Montreal areas are vastly different, so much so that I do not think that the commutation service in the Montreal area vis-à-vis the Oakville-Toronto area supports a claim of unjust discrimination against Oakville, even if detriment were not an essential element of unjust discrimination.

I therefore find that the Canadian National has not unjustly discriminated against Oakville. However, this does not mean that the Oakville service will not be improved, for the railway indicated during the hearing a willingness and desire to satisfy the Oakville commuters insofar as reasonably possible to do so—there are of course other commuters along the line to be considered also—and subsequent to the hearing wrote a letter to the Board from which I quote pertinent excerpts:

> "At the hearing of the Board held in Toronto on June 21-23 last dealing with commutation fares and services in the Toronto area the Chief Commissioner requested Counsel for the Canadian National to advise the Board as quickly as possible what, if anything, Canadian National could do to improve the commutation service offered to the public on the Toronto-Oakville line."
>
> ". . . Any major change in the traffic pattern on this line and in the Toronto terminals at the peak hours when the commuters wish to have additional service, creates a serious operating problem the effect and extent of which is difficult to measure, unless detailed studies are made."

"Despite these obstacles we have endeavoured to approach the Chief Commissioner's request from a constructive point of view and we have concluded that there are a number of possible ways whereby additional service could be provided for the commuters in the Toronto-Oakville area, but it is not too clear at this time whether any of these steps would meet the wishes of the commuters in this area as a whole, nor just how far-reaching their effect might be. The type of changes which we have in mind and which could be examined in detail involve alterations in arrival or departure times of the present trains; stops for certain through trains, such as No. 14, which go through the commutation zone at the desired time; alterations to schedules of existing local trains, such as train No. 80, so as to make them suitable for commuter travel, and matters of that kind."

"We are fully aware, of course, of the views of at least some of the commuters from Oakville, but we have had no complaints or suggestions from commuters resident at any of the other eight intermediate stations between Oakville and Toronto. We are certainly opposed to taking any action or making any proposals until we know definitely whether or not such action or proposals will be in the general interest of the majority of the commuters using our service and those who may do so in the future."

"As a first step we think we should ask all our patrons using the Toronto-Oakville commuter service just what changes they would like to see made in order to provide them with transportation more closely fitting their needs. We therefore propose to institute such a survey as quickly as possible and thereby establish as a basis to work from the nature and hours of service most suitable to the majority of the people wishing to travel. Once we have this basic information we will then examine the possibilities which appear open to us at this time, to see whether or not any of them would be feasible and result in improved service. At the same time we will be able to examine the effect, both good and bad, which such changes would have on other users of train service in this area."

I think that the Canadian National's proposal is reasonable and is all that should be expected of the railway at this time.

The Oakville Commuters Association also expressed its view on the question of commutation fares and they will be discussed herein in connection with the application of the Canadian Passenger Association.

THE CANADIAN PASSENGER ASSOCIATION'S APPLICATION

The commutation rates presently in effect were prescribed by the Board by its Order No. 75234, dated September 22, 1950. What the railways seek is the rescission of that Order and concurrent freedom to put into effect increased commutation rates set forth in Schedules "A" and "B" submitted by them and on file with the Board. They would put Schedule "A" rates into effect as soon as possible, followed six months later by Schedule "B" rates. The Schedule "A" rates would incorporate half of the estimated increases proposed, the Schedule "B" rates would incorporate the full increases.

The following examples are given:

The present commutation fare between Toronto and Oakville, 21·6 miles, is 25·2¢ on a 40-trip basis. Under Schedule "A" it would be 37·8¢, under Schedule "B" 50·4¢. Regular passenger fares for approximately the same distances are: First Class, 85¢, Coach, 75¢; return First Class 77·5¢, return Coach 67·5¢, each way. First Class, per mile, is 4¢, Coach 3·5¢.

The basis on which the railways put their case and the principles they advocate were stated concisely and clearly by Mr. Macdougall, Commission Counsel for Canadian National Railways, at pages 4212 and 4213 of the transcript as follows:

> "The present situation, as your lordship and members of the Board are well aware, is that the commutation rates are prescribed by Order No. 75234. That Order was issued on September 22nd, 1950, and that is the only time that these rates have been prescribed. Never before were they prescribed. They have been for many years maintained on the old general principle that the railways were free to adjust commutation rates and raise or lower them below the approved ceilings which the Board had approved for passenger rates, of course always subject to complaints and looking into by the Board. So we have therefore applied at this time for an Order rescinding the prescribing Order and thus returning to the railways the ability to adjust commutation rates as their costs indicate they must be in order to make these operations compensatory.
>
> "We have therefore in taking that position advised the Board and those interested that what we intend to do when we are relieved of the prescription is to show the Board what we must have as a minimum basis of rates to give us what we describe as a fighting chance to make these commutation services self-sustaining. It is our view, and we have given it to you in evidence, that nothing less than the schedule "B" basis of rates will give us any chance of making this service compensatory.
>
> "Now, when we speak of 'compensatory' I would make it clear, as I think it has been made clear by your lordship and other members of the Board during the examination of witnesses, that we are not considering anything but our revenue and our out-of-pocket costs. I think we have made it clear that there is nothing in the costs which we have shown to you these past few days in the nature of general overhead or dividends or surplus or any items of that kind. We have endeavoured, as your lordship says, to reduce these costs to a rock bottom basis so they are out-of-pocket costs of the particular commutation service we are looking at at the time."

Mr. Spence, Commission Counsel for Canadian Pacific, stated that he wholeheartedly agreed with the submissions made by Mr. Macdougall.

Attitude of the Toronto Board of Trade

The Toronto Board of Trade submitted a very comprehensive brief. Its views as a responsible and representative non-railway body are worth indicating in some detail. It pointed out the inadequacy of existing public transportation facilities to handle traffic quickly and conveniently during the morning and evening peak hours in the Greater Toronto Area and requested the railways to make a comprehensive study, in cooperation with other interested responsible bodies, of the needs of the Area for rail commutation services coordinated with the services provided by, or to be provided by, the Toronto Transit Commission.

On the question of rates, the Toronto Board of Trade pointed to the fact that the Toronto Transit Commission fixes its tolls and fares so that the revenues of the Commission shall be sufficient to make all transportation facilities under its control and management self-sustaining. The Board of Trade expressed the opinion that the legislative requirement that the revenues of the Commission shall be sufficient to make its transportation facilities self-sustaining is a sound business principle which should be adopted with respect to rail commutation services.

I quote certain pertinent paragraphs from the brief which speak for themselves:

Page 3951—

"15. Table No. VI (Exhibit J), is a comparison of the existing forty ticket rail commuter rates with the present twenty-five ticket bus commuter rates (the lowest available), the Toronto Transit Commission new zone fares effective July 1, 1954, and the 50 ticket rail commuter rate under Schedules "A" and "B" proposed in the application of the Canadian Passenger Association presently before your Board. It will be noted that the existing rail rates from Toronto to Oakville are approximately one-half of the bus rates, and, with the exception of the proposed minimum rail rate to Sunnyside, the proposed rail rates under Schedule "B" will still be somewhat lower than the present bus rates. It has been announced that the bus rates may be increased in the not distant future in which event the rail service will have an additional advantage in rate schedules."

Page 3955—

". . . It is unfortunate that there are citizens who, even in periods of maximum employment, are unable to earn an economic wage and provide all of the essentials of life for themselves and their families. The remedy to their economic problems, however, lies in other directions than depriving a public utility, which they desire to use, of adequate revenue to carry on its services efficiently. No business, whether public or private, could survive under such an unsound policy.

Page 3958—

". . . Insofar as commuter services are concerned, it is unfair and unjust to burden shippers, consignees, consumers and tax payers generally, with deficits arising from these special services in order that a comparatively small minority may enjoy less than economic rates."

Page 3963—

"29. The Board of Trade is further of the view that not only should the railways be permitted to charge economic fares for commuter services and that such services should be, as far as possible, placed on a self-sustaining basis, but that they should be permitted to discontinue a commuter service after a fair trial for an agreed period and adequate promotional effort upon submission of reasonable proof to your Board that the particular service cannot be placed on a self-sustaining basis within the foreseeable future and no proper means for absorbing deficits are available. In determining whether a particular commuter service should be discontinued, consideration should be given to its essentiality in the transportation system of the area and, if essential, whether its deficits can be absorbed by the commuter services in the area as a whole or by agreements with the municipalities served such as the Toronto Transit Commission is authorized to enter into."

Page 3964—

"(*f*) Each such area should be financially responsible for the commuter services provided within it, either by accepting fare rates that will sustain the services demanded, or alternatively subsidizing such operations to the extent that revenue from fares fails to meet costs of operation. If the first cannot be realized, and the second is not forthcoming, then the operators of the services must be free to discontinue them."

Page 3965—

"(*g*) It is recognized that costs of operation of commuter services over track used in common with freight and non-commuter passenger services are impossible of exact determination. But the added costs of commuter operation can be reasonably determined, and these added costs should be locally met, either by commuter fares or municipal subsidy.

"(*h*) It is also suggested that the railways should be willing to initiate services even if such are not expected to be immediately self-sustaining, if there is a reasonable likelihood of their being self-sustaining at a very early date, provided that if such anticipations are not realized, and subsidy is not forthcoming, the service could be discontinued.

"(*i*) It is desirable, but not essential, that the rates of fares on all commuter services within the Toronto Zone be the same. But it is not reasonable that the rates of fares on any Toronto service should be governed by, or govern, the rates of fare on other commuter services elsewhere in Canada."

Page 3966—

"(*a*) That the application of the Canadian Passenger Association be considered by the Board upon the basis that commuter services should be established upon a self-sustaining basis, and that such increase as the railways can prove is necessary to place the commuter services on a reasonably self-sustaining basis, be granted."

Page 4231—

". . . Under Schedule "B" the railways would still be competitive and a few cents under but with the increased costs in they will still be below the bus rates. So we feel that as a result of our studies that Schedule "B" rates are reasonable and justifiable."

Attitude of Oakville Commuters' Association in respect of fares

Counsel for the Oakville Commuters' Association put the Association's position as follows at pages 4202-3 and 4238:

"Mr. Turville: On that score I should say that my instructions are on the question of rates that Oakville are not offering any opposition to an increase. My clients are realistic about it. They realize that in these days and times of inflation, everybody is getting a higher price for his services and goods; and I think the Board will realize that it is a reasonable approach on their part. But at the same time we are relying on this Board to keep them down, as you have indicated you probably will, to out-of-pocket expenses, and if that is done then my people will be content to bear the rates as they are fixed without complaint.

"If any increase is to be made I would ask, however, that it be placed on the commuters somewhat more gradually than is proposed in the Passenger Association application, and from the point of view of the commuters, too, it might be desirable that it should not be placed on them too quickly. If they are going to have consumer acceptance I would suggest that when the new rates come into effect that they should initially be 50 per cent of whatever the increase might be added to these present rates and in six months 25 per cent, and at the end of the year the balance of it. At least I suggest that for the Board's consideration."

". . . I can appreciate the desire of the railways to have the rates fixed early enough to enable them to consider them in the survey which is to be made of the rest of the area but if it is to become effective earlier than the modification of the rates so far as they affect Montreal commuters

then I submit it constitutes a further discrimination against my clients. They would have to pay higher rates than the Montreal commuters and still be without the additional service."

Operating Results

The Toronto hearing was primarily concerned with commutation services and fares insofar as they relate to the Toronto area. The only commutation services in that area are provided by Canadian National Railways and it gave evidence in respect of those services, and subsequently furnished supplementary evidence in that respect. It also gave evidence in respect of its largest commutation operation, Montreal-St. Eustache. The Canadian Pacific gave evidence as to its Montreal-Vaudreuil-Rigaud commutation service.

The evidence included figures of revenues, expenses and losses and of the numbers of commuters and pass-holders carried, projections and estimated effects revenue-wise of the proposed increased rates, and comparisons of commutation rates with bus and other rates. I do not propose to recite that evidence in detail or at length but I will make such findings thereon as I think are necessary for the purposes of the application insofar as it concerns the Toronto area.

Based primarily upon the 1953 Operating Revenue and Operating Cost Data for the Toronto-Oakville Commuter Train Services furnished of record during the course of the hearings, and subsequent thereto in accordance with the stated requirements of the Board, we find for a projected constructive year—

> assuming initially for the purposes of this application a continuance of the 1953 traffic volume, and after making all reasonable adjustments for (*a*) pass holders' revenue equivalents based on the requested increased rate levels for 40-trip commutation tickets (*b*) converted commuter coach operations and other potential operating cost savings of an economically practical character and (*c*) Toronto Terminals expense reallocation—

that the granting of the full increases in commuter ticket fares for the Toronto area as now sought by the applicants would produce gross revenues falling short, at least in the initial stages, of covering direct "out-of-pocket" operating expenses before making any allowance for the inevitable cost factor of depreciation of equipment used in the related commuter train services and, a fortiori, before giving any consideration to any financial return on the investment in such equipment predicated upon the so-called "cost of money" or any other fiscal principle.

Passes

In these proceedings, as in some former commutation rate cases, the matter of pass-holders on commuters' trains was raised. The Oakville Association did not object to the railway giving passes to its employees. Mr. Morris, speaking for that Association, put the objection thus, at page 4036:

> ". . . What we do object to is really carrying the load of those people ourselves when it comes to relating this cost of the service, or as the railway calls it, net loss."
>
> ". . . our position is that there should be some credit when estimating costs from the commuter service in respect of all these free passes."

We have looked at the problem of pass-holders in two ways, first by considering the expenses which are incurred by the railways in carrying pass-holders on commuters' trains and which would be eliminated if the pass-holders were not carried; secondly, by considering what addiational revenues the railways would receive if the pass-holders were to pay commutation

fares. Our purpose in doing so was to get at the actual out-of-pocket cost of living commutation services. The railways themselves expressed their willingness to eliminate from the calculation of cost all expenses attributable to the carrying of pass-holders.

In our calculations we have proceeded on the assumption that pass-holders pay the same fares as commuters, thus eliminating the contention of commuters that they should not be called upon to shoulder the cost of carrying pass-holders.

Taper

Counsel for the Oakville Association submitted that it is fair and reasonable to taper commutation fares, and he urged that tapering be considered.

Taper is more susceptible of application where mileage to the furthest commutation points is considerable and where there is commuter traffic to the end of the run. In this case, although commuter trains run all the way to Hamilton (a distance of about 40 miles) once Oakville is reached (about 21 miles from Toronto) practically all commuter traffic ceases.

The benefit of a taper would be felt by those who travel the longer distances, the burden by those who travel the shorter distances. Whether or not a taper is desired by the majority of commuters and what the effects of a taper would be are conjectural at present and I feel that the Board should not introduce a taper into existing commutation fares without more justification than exists at present. We will, however, give the matter further study and we have requested the railways to do likewise.

CONCLUSIONS

I have already stated our conclusions as to the result revenue-wise that the granting in the Toronto area of the full increase in commutation rates sought by the railways would have.

In dealing with commutation services I think the time has arrived to apply a general rule that a railway is entitled to charge commutation rates at a level that will return at least the railway's reasonable and actual out-of-pocket cost of furnishing the commutation service concerned, and that the railway should not be required by this Board to provide or continue to provide commutation services which will not meet that cost.

I find no conditions which would justify me in refusing to Canadian National the right to charge commutation fares in the Toronto area sufficient to return reasonable and actual out-of-pocket cost of the commutation services there. I take the Oakville-Toronto service as the yardstick for that area.

However, too abrupt an increase in the rates may, because of consequent loss of patronage, result in less commuter fare revenue than a more gradual increase would yield. The proposal of the railways was to put in Schedule "A" rates first and Schedule "B" rates six months afterwards. Counsel for the Oakville Association suggested an alternative method, namely: to start with 50 per cent of any permitted increase, follow in six months with another 25 per cent, and in another six months with the remaining 25 per cent of the increase. In my opinion this alternative method would serve the mutual interests of the railway and commuters better than would the method proposed by the railways. While I am of the opinion that the Canadian National should be allowed to adjust its commutation rates in the Toronto area as set forth in Schedule "B", I think that under all the circumstances the adjustment should, in respect of the time when it is permitted to go into effect, be subject to the terms set forth in the next following paragraph.

I would therefore allow Order No. 75234 to be rescinded insofar as it applies to the Toronto area and would authorize Canadian National Railways to adjust its commutation fares in that area to the Schedule "B" level, the increases to be made effective on statutory notice in three stages, namely: approximately 50 per cent of the increase to be made effective not earlier than September 30, 1954, another approximately 25 per cent not earlier than six months from the effective date of the first increase, and the final portion of the increase not earlier than the expiration of another six months thereafter.

The present hearing has been instrumental in bringing to light the pressing problem of traffic congestion in Metropolitan Toronto and the urgency of exhausting all possible means of alleviating the situation.

An important factor is the difficult question of how to take care more effectively of the travelling needs of the ever growing number of commuters and the extent to which the railways may be able to provide at least a partial solution. In this connection, the hearing has had the effect of setting in motion the machinery for making a complete and prompt survey of the situation which will have the concerted co-operation of, *inter alia*, the Minister of Highways and other officials of the Ontario government, the Toronto Board of Trade, the Oakville Commuters Association, and members and staff of the Board.

I think, nevertheless, that we would be deluding ourselves if we thought that it will only require a few weeks to obtain lasting results. Mr. Tolchard made a fair appraisal, I believe, of the time factor when he said: "I think we can, with an honest effort, come up with something within six months". The attitude in which these things are approached has an all-important bearing on the outcome, and I wish here to repeat the gratification which the Board expressed verbally in respect of the constructive approach to an admittedly difficult problem adopted by all parties who appeared before us and to renew our hope that beneficial results will ensue in the respective interests of all concerned.

Commissioners MacPherson and Chase are presently absent from Ottawa and consequently are not available to attach their signatures to this Judgment but they have authorized me to state that they concur.

JOHN D. KEARNEY.

I concur:

A SYLVESTRE.

I concur:

O. A. MATTHEWS.

AUGUST 4, 1954.

SYLVESTRE, D.C.C.:

Although I have concurred in the Judgment herein I would add a few words of explanation.

In 1950 I took part in the hearings in respect of the tariffs filed by the railways whereby they sought to increase commutation fares, and I concurred in the Judgment of September 21, 1950, reported in 66 C.R.T.C. 98 wherein the presently existing commutation fares were prescribed. At that time we did not allow the full increases sought by the railways. Their evidence in my opinion was not convincing as to what the actual out-of-pocket operating cost of the commutation services amounted to, and, as stated in the subsequent Judgment of February 1, 1951, reported in 66 C.R.T.C. 145, I was not prepared to find from what was presented to us that the increased rates allowed by

us would fail to meet such cost. A different situation has been shown to us on this occasion and the Canadian National has given more complete and convincing evidence than it did in 1950 of its out-of-pocket cost of the Toronto-Oakville service, and I feel that the increased fares now sought would, as stated in the Judgment, in this case fall short of meeting such out-of-pocket cost.

A. SYLVESTRE.

AUGUST 4, 1954.

ORDER No. 84223

In the matter of the application of the Canadian Passenger Association, dated May 13, 1954, and its member lines mentioned therein, for an Order rescinding Order No. 75234, dated September 22, 1950, re commutation fares:

File No. 29984·18

and

In the matter of the application of the Oakville Commuters Association complaining that commutation train service presently provided by the Canadian National Railways between Toronto-Oakville, and Montreal-Ste. Anne de Bellevue and Montreal-St. Eustache-sur-le-Lac unjustly discriminates against the Toronto-Oakville area in favour of the other areas, and for an Order directing Canadian National Railways to provide additional commutation train service between Oakville-Toronto:

File No. 12758·120

WEDNESDAY, the 4th day of August, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing Counsel and representatives of the Oakville Commuters Association, the Canadian Passenger Association, the Canadian National Railways, the Canadian Pacific Railway Company, the New York Central Railroad Company and the Toronto Board of Trade—

It is Ordered—

1. That the said application of the Oakville Commuters Association be, and it is hereby dismissed.

2. That Order No. 75234, dated September 22, 1950, be, and it is hereby rescinded insofar as it applies to the Toronto area including Toronto-Oakville, Toronto-Weston, Toronto-Port Union and Toronto-St. Clair Avenue.

3. That Canadian National Railways may adjust its rates for commutation passenger traffic in the said Toronto area in accordance with the judgment herein dated August 4, 1954.

JOHN D. KEARNEY,
Chief Commissioner.

Au sujet de la requête de la Canadian Passenger Association, datée du 13 mai 1954, et des lignes ferroviaires y mentionnées qui en font partie, visant à obtenir l'émission d'une ordonnance abrogeant l'ordonnance nº 75234, datée du 22 septembre 1950, portant sur les billets d'abonnés.

Dossier nº 29984·18

et

Au sujet de la requête de la Oakville Commuters Association qui se plaint que le service fourni présentement à leurs abonnés par les chemins de fer Nationaux du Canada entre Toronto et Oakville, et entre Montréal et Sainte-Anne-de-Bellevue et entre Montréal et Saint-Eustache-sur-le-lac constitue un traitement d'exception au détriment de la région Toronto-Oakville par rapport à celui qui est accordé aux autres régions, et demande l'émission d'une ordonnance enjoignant les chemins de fer Nationaux du Canada d'améliorer le service des trains mis à la disposition des abonnés entre Oakville et Toronto.

Dossier nº 12758·120

Présents:

L'hon. juge, JOHN D. KEARNEY, *commissaire en chef.*

A. SYLVESTRE, C.R., *commissaire en chef suppléant.*

F. M. MACPHERSON, *commissaire.*

H. B. CHASE, C.B.E., *commissaire.*

O. A. MATTHEWS, *commissaire.*

Témoins:

F. D. TURVILLE, C.R., au nom de la *Oakville Commuters Association.*

HUGH S. O. MORRIS, président, *Oakville Commuters Association.*

F. J. CORNISH, C.R., en personne.

J. W. G. MAÇDOUGALL et W. G. BOYD, au nom de la *Canadian Passenger Association* et des chemins de fer Nationaux du Canada.

K. D. M. SPENCE, C.R., et G. P. MILLER, au nom de la *Canadian Passenger Association* et du chemin de fer Pacifique-Canadien.

CUTHBERT SCOTT, C.R., et KENNETH H. LUNDMARK, au nom de la *New-York Central Railroad Company.*

F. D. TOLCHARD et N. D. WILSON, au nom du *Board of Trade* de Toronto.

JUGEMENT

KEARNEY, J., commissaire en chef:

Il était manifeste qu'à l'égard des requêtes précitées il faudrait tenir des audiences à plusieurs endroits afin d'étudier à fond les questions en litige; la Commission a donc prévenu les parties intéressées que ces audiences auraient lieu à Toronto en juin, à Montréal en septembre, et ailleurs, au besoin, plus tard. Des séances eurent lieu à Toronto les 21, 22 et 23 juin pour y étudier

les requêtes du point de vue des services de trains d'abonnés et du prix des billets dans la région de Toronto. Au cours de cette audience on a aussi présenté un mémoire au nom du *Board of Trade* de Toronto, traitant en général de la question des services de trains d'abonnés dans la région de Toronto.

Je traiterai d'abord de la requête de la *Oakville Commuters Association,* ci-après désignée quelque fois comme la requête d'Oakville, en ce qui concerne le service des trains pour abonnés, puis je traiterai de la requête de la *Canadian Passenger Association* relativement aux prix des billets des abonnés. Le mémoire du *Board of Trade* de Toronto ne portait pas en particulier sur la requête d'Oakville, mais plutôt sur la question du prix des billets d'abonnés et l'accroissement du service des trains pour abonnés dans la région de Toronto.

LA REQUÊTE D'OAKVILLE

Dans cette requête on se plaint que le service de trains fourni présentement à leurs abonnés par les chemins de fer Nationaux du Canada entre Toronto et Oakville, et entre Montréal et Sainte-Anne-de-Bellevue et entre Montréal et Saint-Eustache constitue un traitement d'exception au détriment de la région Toronto-Oakville par rapport à celui qui est accordé à d'autres régions. Cette plainte s'accompagnait d'une requête à la Commission lui demandant d'ordonner au chemin de fer d'accroître le service de trains d'abonnés entre Oakville et Toronto.

Le National-Canadien est le seul chemin de fer qui assure un service de train d'abonnés dans la région de Toronto-Oakville. Il y a deux trains réguliers d'abonnés tous les matins et tous les soirs. Les trains du matin, les numéros 74 et 76, partent d'Hamilton. Ils quittent Oakville à 5 h. 47 et 6 h. 32 heure normale (les heures mentionnées dans le présent document se fondent sur l'heure normale, mais en été les deux trains réguliers pour abonnés suivent l'heure dite "avancée", tandis que la plupart des trains réguliers restent à l'heure solaire) et arrivent à Toronto à 6 h. 35 et 7 h. 30. Les trains correspondants du soir, les numéros 79 et 81, quittent Toronto à 4 h. 20 et 5 h. 20. Ce sont là les seuls trains réguliers pour abonnés entre Toronto et Oakville. La distance est de 21·6 milles. Le parcours de checun de ces trains s'effectue en un peu moins de soixante minutes. En route, ils s'arrêtent aux gares qui sont comparativement rapprochées les unes des autres, soit à un mille, un mille et demi et deux milles de distance.

En plus des trains réguliers pour abonnés, il y a des trains réguliers de voyageurs le matin, y compris les suivants: le nº 14, arrivant à Oakville à 8 h. 18, qui part de Chicago et n'arrête à Oakville que lorsque des voyageurs venant de Sarnia et de l'Ouest y descendent; il prend alors les abonnés à destination de Toronto; le nº 94 en provenance de New-York, arrivant à Oakville à 7 h. 21 et à Toronto à 8 heures; il y a lieu de signaler ici que le train nº 712 du Pacifique-Canadien arrive à Oakville à 6 h. 59 du matin, mais comme c'est un train international il n'accepte pas les abonnés. Les dépositions ont démontré que les trains internationaux sont souvent en retard tant à Oakville qu'à Toronto.

Le soir, en plus des trains réguliers pour abonnés partant de Toronto à 4 h. 20 et 5 h. 20, il y a le nº 5 qui quitte Toronto à 6 heures,—puis il n'y a pas d'autres trains avant 11 h. 55 du soir; il y a aussi deux autres trains directs réguliers qui n'arrêtent à Oakville que pour laisser descendre ou monter des voyageurs directs, ainsi que certains trains à destination de New-York et Chicago qui ne transportent pas les abonnés.

Le terminus des trains réguliers d'abonnés est à Hamilton où les voitures et locomotives passent la nuit et reçoivent les soins d'entretien requis. Il n'a a pas d'installation à Oakville pour l'entretien des trains et des locomo-

tives. La plus grande partie du trafic qui emprunte ces trains provient de la région comprise entre Oakville et Toronto et il n'y en a que peu en provenance ou à destination de la région comprise entre Hamilton et Oakville.

Le plus petit des deux trains d'abonnés se compose d'une locomotive et de sept voitures, tandis que le plus gros comprend une locomotive et treize voitures. L'outillage utilisé jusqu'à présent est vieux, mais on est sur le point de mettre en service des voitures modernes entièrement d'acier.

Des représentants des chemins de fer ont déclaré que la partie du réseau entre Hamilton et Toronto est celle où le trafic ferroviaire est le plus intense au Canada; il y a 18 trains de voyageurs par jour dans chaque direction et environ le même nombre de trains de marchandises, y compris des trains de marchandises à horaire régulier. Il faut aussi tenir compte de la capacité de la gare terminus de Toronto parce que les voies y sont fort achalandées durant la période qui convient le mieux aux abonnés.

Les autres moyens de transports entre Oakville et Toronto sont l'autobus et l'automobile. Aux heures de pointe, il y a un autobus à tous les quarts d'heure environ.

M. Morris, président de la *Oakville Commuters' Association,* qui seul a rendu témoignage au nom de l'Association, a déclaré qu'à son avis environ 200 abonnés d'Oakville recourent quotidiennement aux services actuels. Cependant, d'autres dépositions ont révélé qu'environ 1,600 ou 1,700 abonnés en tout voyagent à bord de ces trains, les autres abonnés habitant d'autres localités du parcours. M. Morris estime à 113,000 la population des régions desservies par ces trains. Il croit que si le service était amélioré, le nombre des abonnés augmenterait considérablement.

On a établi des comparaisons entre le service dont jouissent les abonnés de la ligne Oakville-Toronto et ceux des lignes Montréal-Saint-Eustache et Montréal-Sainte-Anne dont il a été question ci-dessus. Il est clair que la région de Montréal est mieux servie que celle de Toronto-Oakville pour ce qui est du matériel et du nombre de trains.

Sur la ligne de Saint-Eustache, le National-Canadien fait circuler six trains à destination de Montréal au cours des heures de pointe le matin et six trains dans l'après-midi de même que deux trains le soir, à destination de Saint-Eustache. Le volume du trafic sur cette ligne s'établit à environ trois millions et demi de voyageurs par an.

Entre Montréal et Montréal-Nord, deux trains entrent à Montréal le matin et deux en sortent le soir. Le nombre des voyageurs est d'environ 320,000 par an.

Entre Montréal et Saint-Hilaire, il y a deux trains le matin et deux le soir pour les abonnés; le nombre des voyageurs est d'environ 540,000 par an.

Sur la ligne Montréal-Vaudreuil, cinq trains entrent à Montréal le matin. Quatre en sortent l'après-midi et deux le soir. Le nombre annuel des voyageurs est d'environ 600,000.

Sur la ligne Montréal-Mont-Royal, il y a deux trains le matin et deux le soir. On transporte environ 535,000 voyageurs par an.

En plus des trains que nous venons de mentionner, il y aussi évidemment ceux du Pacifique-Canadien qui circulent dans la région de Montréal.

La ligne Toronto-Oakville, où deux trains circulent le matin et deux le soir, transporte environ un demi-million de voyageurs par an.

Les voies sont beaucoup moins occupées et les trains de toutes sortes beaucoup moins nombreux dans la région de Montréal que sur la ligne Hamilton-Toronto.

M. Morris a également dressé des comparaisons entre la population desservie par les trains de banlieue de Montréal et celle que dessert la ligne Oakville-Toronto.

Au nom du National-Canadien, on a fait valoir, entre autres choses, que l'horaire des trains de banlieue de la ligne Toronto-Oakville se compare avantageusement à celui des trains de Montréal et que, à cause des nombreux arrêts, il est impossible d'améliorer le service; que la circulation est tellement active dans la zone Hamilton-Toronto et la gare de terminus de Toronto tellement encombrée qu'il serait extrêmement difficile d'augmenter le nombre de trains de banlieue entre Toronto et Oakville; que l'établissement du terminus à Oakville plutôt qu'à Hamilton n'entraînerait aucune réduction des frais et qu'il en résulterait des conditions désavantageuses d'exploitation.

On a appuyé assez longtemps sur le parallèle entre la ligne Toronto-Oakville et les lignes de la région de Montréal, mais je crois que les renseignements qui viennent d'être communiqués donnent une assez juste idée de la situation.

L'avocat d'Oakville a soutenu, dans son plaidoyer, qu'il existe une distinction injuste au détriment des abonnés, actuels ou éventuels, d'Oakville et à l'avantage de ceux de Saint-Eustache et de Sainte-Anne, à l'égard: *a*) du nombre de trains, et *b*) du matériel roulant. Personne ne prétend, il le reconnaît, que sur la ligne Toronto-Oakville, un endroit soit plus favorisé qu'un autre.

Pour ce qui est de l'allégation concernant le matériel roulant, je crois que les nouveaux wagons qu'on affectera à la ligne Toronto-Oakville seront comparables à ceux des lignes montréalaises et dissiperont toute cause de mécontentement à l'égard de la différence de matériel.

Passons maintenant au chapitre du service. De toute évidence, le service dont jouissent les abonnés des lignes Sainte-Anne et Saint-Eustache est différent de celui de la ligne d'Oakville en ce que les trains y sont plus fréquents et circulent à des heures plus propices. Cependant, un service différent ne représente pas nécessairement une distinction injuste ni un traitement de faveur.

Bien qu'il ait été établi que le service diffère, on n'a pas prouvé qu'une ligne ou une autre, dans la région de Montréal, a été avantagée au détriment de la ligne d'Oakville, ni que le service assuré à la région de Montréal ait nui aux abonnés d'Oakville. En outre, les conditions d'exploitation dans les régions de Toronto et de Montréal sont très différentes, à ce point que, même si le préjudice n'était pas un élément essentiel de toute distinction injuste, il serait impossible, à mon avis, de soutenir, en comparant les services de banlieue de Montréal avec ceux de Oakville-Toronto, qu'une distinction injuste existe au détriment d'Oakville.

Je constate donc que le National-Canadien n'a pas traité Oakville injustement. Cependant, cela ne veut pas dire que le service d'Oakville ne sera pas amélioré, car le chemin de fer a donné à entendre, au cours des témoignages, qu'il est désireux de donner satisfaction, dans la mesure où cela sera raisonnablement possible, aux abonnés d'Oakville,—il faut aussi, évidemment, considérer le cas d'autres abonnés de cette même ligne,—et, à la suite de l'audition, il a écrit à la Commission une lettre dont voici des extraits pertinents:

> "A l'audience de la Commission tenue à Toronto, du 21 au 23 juin dernier, à propos du tarif et des services des trains de banlieue dans la région de Toronto, le commissaire en chef a demandé à l'avocat du National-Canadien de faire connaître le plus tôt possible à la Commission les mesures, s'il en est, que le National-Canadien pourrait prendre pour améliorer le service dont jouissent les abonnés sur la ligne Toronto-Oakville."
>
> "Toute modification importante touchant la circulation sur cette ligne et l'horaire des trains à la gare de Toronto aux heures de pointe pour lesquelles les abonnés réclament des trains supplémentaires ferait surgir

un grave problème d'exploitation dont il serait difficile de mesurer les conséquences et la portée à moins d'en faire une étude circonstanciée".

"En dépit de ces obstacles, nous nous sommes efforcés d'envisager avec esprit pratique la demande du commissaire en chef et nous avons constaté qu'il y aurait plusieurs moyens d'assurer un service supplémentaire aux abonnés de la région Toronto-Oakville. Cependant, on ne saurait dire en ce moment si l'une ou l'autre de ces mesures pourrait répondre aux désirs de l'ensemble des abonnés, ni quelle serait la portée de ces mesures. Les changements que nous envisageons et qui pourraient être étudiés par le détail comportant la modification des heures de départ ou d'arrivée des trains actuels, des arrêts pour certains trains directs, comme le nº 14 , qui traversent la banlieuse aux heures utiles, le changement d'horaire des trains locaux actuels, comme le nº 80, afin qu'ils puissent convenir aux abonnés, et d'autres changements de ce genre."

Évidemment, nous connaissons parfaitement les vues de quelques-uns au moins des abonnés d'Oakville, mais nous n'avons reçu ni plainte ni proposition de la part des abonnés habitant les huit points intermédiaires entre Oakville et Toronto. Nous ne voulons certes prendre aucune mesure, ni formuler aucune proposition avant de nous être assurés que ces mesures ou propositions répondent à l'intérêt général de la majorité des abonnés actuels et éventuels de notre service."

"Pour commencer, nous estimons devoir demander à tous nos clients du service de banlieue Toronto-Oakville quels sont les changements propres à leur assurer un service répondant de plus près à leurs besoins. Nous nous proposons donc de mener le plus tôt possible à ce sujet une enquête qui nous servira de guide quant à la nature et aux heures du service qui conviendraient le mieux à la majorité des gens qui désirent voyager sur cette ligne. Une fois que nous posséderons ces renseginements fondamentaux, nous examinerons les moyens qui semblent s'offrir à nous en ce moment, afin de déterminer s'il en est qui sont pratiques et de nature à améliorer le service. En même temps, nous pourrons mesurer les conséquences, bonnes et mauvaises, que ces changements entraîneraient pour les autres voyageurs des trains de banlieue dans cette région."

J'estime que la proposition du National-Canadien est raisonnable et qu'on ne devait pas exiger davantage du chemin de fer en ce moment.

La *Oakville Commuters Association* a aussi exprimé ses vues sur le tarif d'abonnement; nous y reviendrons à propos de la demande de la *Canadian Passenger Association.*

DEMANDE DE LA CANADIAN PASSENGER ASSOCIATION

Le tarif d'abonnement actuellement en vigueur découle d'une décision rendue par la Commission dans l'ordonnance nº 75234 du 22 septembre 1950. Les chemins de fer réclament l'annulation de cette ordonnance en même temps que la faculté d'appliquer le tarif majoré d'abonnement qui figure aux Tarifs "A" et "B" qu'ils ont présentés et qu'on a déposés aux dossiers de la Commission. Ils désirent appliquer aussitôt que possible le tarif "A" et appliquer ensuite le tarif "B", après un délai de six mois. Le tarif "A" comporte la moitié des majorations estimatives proposées et le tarif "B" les pleines majorations.

On donne les exemples suivants:

Le tarif actuel d'abonnement entre Toronto et Oakville, soit une distance de 21·6 milles, est de 25·2c. pour une série de 40 voyages. Sous le régime du tarif "A", le prix serait de 37·8c. et, sous le régime du tarif "B", de 50·4c. Les prix réguliers pour une distance analogue sont: première classe, 85c.;

voiture ordinaire, 75c.; première classe, aller et retour, 77·5c. et voiture ordinaire, aller et retour, 67·5c., dans chaque sens. Le tarif par mille est de 4c. pour la première classe et de 3·5 pour la voiture ordinaire.

Les points sur lesquels les chemins de fer appuient leur thèse et les principes qu'ils préconisent ont été exposés avec clarté et concision par M. Macdougall, avocat attitré des chemins de fer Nationaux, aux pages 4212 et 4213 de la traduction des notes sténographiques.

Voici ce qu'il dit:

"A l'heure actuelle, ainsi que Votre Honneur et les membres de la Commission le savent, le tarif d'abonnement est prescrit par l'ordonnance nº 75234. Cette ordonnance remonte au 22 septembre 1950; c'est la seule occasion où ces tarifs aient été prescrits. On les a maintenus pendant de longues années en vertu du principe général depuis longtemps reconnu et suivant lequel les chemins de fer sont libres de rajuster les tarifs d'abonnement et de les majorer ou de les abaisser au-dessous du maximum que la Commission a approuvé pour les tarifs de voyageurs, sous réserve, évidemment, dans tous les cas, des plaintes qui peuvent être portées et du droit de regard de la Commission. Nous demandons donc en ce moment qu'on rende une ordonnance annulant celle qui prescrit les tarifs et redonnant aux chemins de fer la faculté de faire correspondre les tarifs d'abonnement aux frais d'exploitation de façon que ces services soient rentables.

"En conséquence, nous avons informé la Commission et les intéressés que nous nous proposons, lorsque nous aurons été libérés de cette obligation, d'indiquer à la Commission quels sont les tarifs minimums qu'il nous faudrait exiger pour que nous puissions envisager la moindre possibilité d'assurer la rentabilité de ces services de banlieue. Nous estimons,—nous vous en avons fait part dans les témoignages,—qu'aucun tarif inférieur au tarif "B" ne pourrait nous assurer la moindre chance d'équilibrer le budget de ces services.

"A propos de "l'équilibre du budget", je veux qu'il soit bien entendu,—Votre Honneur, je crois, et les autres membres de la Commission l'ont déclaré clairement au cours de l'examen des témoins,—que nous ne tenons compte à ce sujet que de nos recettes et de nos débours ordinaires. Nous avons clairement indiqué, je crois, que le bilan des frais que nous vous avons exposé en ces quelques derniers jours ne comporte ni frais généraux, ni dividendes, ni excédent ni aucun élément de cette nature. Comme Votre Honneur l'a dit, nous nous sommes efforcés de réduire ces frais à leur plus simple expression, de façon qu'ils représente le coût d'exploitation du service particulier de banlieue dont nous nous occupons en ce moment."

M. Spence, avocat attitré du Pacifique-Canadian, a déclaré qu'il approuvait sans réserve les arguments de M. Macdougall.

Attitude du "Board of Trade" de Toronto

Le *Board of Trade* de Toronto a présenté un mémoire très détaillé. Les vues qu'il exprime, à titre d'organisme reconnu et représentatif, libre de toute attache avec les chemins de fer, méritent d'être exposées assez à fond. Il a signalé que les moyens actuels de transport public ne suffisent pas pour assurer rapidement et commodément le transport des voyageurs aux heures de pointe du matin et du soir dans la région métropolitaine de Toronto; il a demandé que les chemins de fer, de concert avec les autres organismes intéressés reconnus, fassent une étude approfondie des besoins de la région en ce qui a trait aux services de trains de banlieue et à leur coordination avec les services qu'assure ou qu'assurera la Commission de transport urbain de Toronto.

Pour ce qui est des tarifs, le *Board of Trade* de Toronto a signalé que la Commission de transport urbain de Toronto établit ses prix et tarifs de façon que ses recettes suffisent à équilibrer le budget de tous les moyens de transport qu'elle exploite et administre. Le *Board of Trade* a exprimé l'avis que c'est avec raison que la loi exige que les recettes de la Commission soient suffisantes pour que les moyens de transport que la Commission exploite soient rentables; il voudrait que ce même principe fût adopté à l'égard des services de trains de banlieue.

Voici certains passages pertinents du mémoire qui se passent de commentaires:

Page 3951—

"15. Le tableau nº VI (pièce J) établit une comparaison entre les prix des cartes actuelles de quarante billets pour abonnés des trains de banlieue, le prix de la carte actuelle de vingt-cinq billets pour abonnés des autobus de banlieue (le prix le plus bas), les nouveaux tarifs de zone de la Commission de transport urbain de Toronto applicables à compter du 1er juillet 1954 et le prix de la carte de cinquante billets pour abonnés des trains de banlieue proposé aux tarifs "A" et "B" joints à la demande que la *Canadian Passenger Association* a présentée et dont la Commission est actuellement saisie. On notera que le tarif actuel des trains de banlieue sur la ligne Toronto-Oakville représente environ la moitié du tarif des autobus et que, exception faite du tarif ferroviaire minimum proposé pour Sunnyside, les tarifs des trains de banlieue, sous le régime du tarif "B" resteront quelque peu inférieurs aux tarifs actuels des autobus. On a annoncé que les prix des billets d'autobus seront peut-être majorés avant longtemps, auquel cas l'écart en faveur du tarif des trains deviendra plus considérable.

Page 3955—

"...Il est regrettable qu'il y ait des citoyens qui, même pendant les périodes où l'emploi est à son maximum, sont incapables de gagner un salaire économiquement suffisant et de répondre à tous leurs besoins essentiels et à ceux de leur famille. Cependant, ce n'est pas en privant un service d'utilité publique, auquel ils veulent recourir, des revenus nécessaires à son exploitation efficace, qu'on doit chercher à résoudre leurs problèmes économiques. Aucune entreprise, ni publique ni particulière, ne pourrait survivre à l'application d'un principe aussi faux.

Page 3958—

"...Pour ce qui est des services d'abonnés, il n'est ni juste ni équitable de faire retomber sur les expéditeurs, les consignataires, les consommateurs et l'ensemble des contribuables, les déficits découlant de ces services spéciaux de façon à assurer des services à une minorité relativement peu nombreuse à des prix inférieurs au prix coûtant."

Page 3963—

"29. En outre, le *Board of Trade* est d'avis que, non seulement on devrait autoriser les chemins de fer à exiger un tarif économiquement suffisant à l'égard des trains de banlieue de façon que ces services deviennent rentables, dans la pleine mesure possible, mais qu'on devrait également les autoriser à supprimer un service d'abonnés après un loyal essai pendant une période, convenue et après des efforts suffisants pour en assurer le fonctionnement, la procédure à suivre en pareil cas consistant à soumettre à votre Commission des preuves raisonnablement convaincantes pour attester qu'il serait impossible, dans un avenir prévisible, d'équilibrer le budget de ce service en particulier et pour démontrer qu'on

ne dispose d'aucun moyen d'absorber les déficits. Quand il s'agit de déterminer si un service d'abonnés doit être supprimé, il faut se demander s'il ne représente pas un élément essentiel du réseau de transport de la région et, s'il est essentiel, si ses déficits ne pourraient pas être absorbés par les autres services d'abonnés de la région ou par des ententes avec les municipalités intéressées, ententes analogues à celles que la Commission de transport urbain de Toronto est autorisée à conclure."

Page 3964—

"*f*) Chacune de ces régions devrait être financièrement responsable des services d'abonnés maintenus sur son territoire, soit par l'acceptation de tarifs propres à soutenir les services requis, soit encore par le versement de subventions à cette exploitation dans la mesure où les tarifs sont insuffisants pour couvrir les frais. Si la première de ces conditions n'est pas réalisée et si la deuxième fait défaut, les exploitants de ces services devraient être libres de les supprimer."

Page 3965—

"*g*) Il est reconnu qu'on ne peut déterminer avec exactitude les frais d'exploitation de services d'abonnés sur des voies ferrées qu'utilisent également les trains de marchandises et les trains de voyageurs autres que les trains de banlieue. Mais les frais supplémentaires qu'occasionne l'exploitation des services d'abonnés peuvent être évalués avec assez de précision. Ces frais supplémentaires devraient être couverts sur le plan local, soit par la vente des billets soit par une subvention municipale.

"*h*) On déclare également que les chemins de fer devraient être disposés à inaugurer des services même si l'on ne peut s'attendre qu'ils soient immédiatement rentables pourvu qu'on puisse raisonnablement supposer qu'ils le deviendront dans un avenir rapproché à condition que, si ces prévisions ne se réalisent pas et aucune subvention n'est versée, le service puisse être interrompu.

"*i*) Il serait opportun, mais non essentiel, que les tarifs de tous les services de banlieue de la zone de Toronto soient les mêmes. Mais il n'est pas raisonnable que les tarifs d'un service de Toronto dépendent de ceux d'un autre service de banlieue ailleurs au Canada, ou vice versa."

Page 3966—

"*a*) Que la demande de la *Canadian Passenger Association* soit étudiée par la Commission en conformité du principe suivant lequel les services d'abonnés devraient être établis de façon qu'ils soient rentables, les majorations dont les chemins de fer peuvent démontrer la nécessité en vue de s'assurer que les services d'abonnés sont raisonnablement rentables devant être accordées."

Page 4231—

"...Sous le régime du Tarif "B", les tarifs des chemins fer seraient encore des tarifs de concurrence et resteraient inférieurs de quelques sous aux prix des concurrents; même en y ajoutant l'augmentation des frais, ils seraient encore inférieurs aux tarifs des autobus. Nous estimons donc, après notre étude de la question, que le Tarif "B" est raisonnable et justifié."

Attitude de l'"Oakville Commuters' Association" à l'égard des tarifs.

L'avocat de l'*Oakville Commuters' Association* a ainsi défini l'attitude de l'Association aux pages 4202, 4203 et 4238:

"M. Turville: A cet égard, je dois dire, pour ce qui est des tarifs, que j'ai reçu instruction de ne pas m'opposer, au nom d'Oakville, à une majoration. Mes clients se rendent compte des faits. Ils savent que, dans la période d'inflation où nous sommes, tout le monde obtient des prix plus élevés pour ses services et ses denrées; la Commission reconnaîtra, je crois, que c'est de leur part une attitude raisonnable. D'autre part, cependant, nous comptons que la Commission maintiendra les tarifs, comme elle a donné à entendre qu'elle le ferait vraisemblablement, au niveau des déboursés. En pareil cas, mes clients accepteront de payer, sans protester, les tarifs qu'on aura établis.

"Si une majoration doit être apportée, je demanderais, cependant, qu'elle soit imposée aux abonnés plus graduellement que ne le propose la demande de la *Passenger Association;* du point de vue des abonnés également, il serait à souhaiter qu'elle ne leur soit pas imposée trop brusquement. Je propose que le nouveau tarif qui sera appliqué comporte au début la moitié de la majoration qui pourrait être ajoutée au tarif actuel, le quart au bout de six mois et le reste à la fin de l'année. En tout cas, je crois que la Commission devrait étudier cette proposition."

"...Je comprends que les chemins de fer souhaitent que le tarif soit fixé assez tôt pour qu'ils puissent en tenir compte dans l'étude qui doit porter sur le reste de la région; cependant, si la modification doit entrer en vigueur avant celle du tarif intéressant les abonnés de Montréal, ce sera, selon moi, une autre inégalité de traitement au détriment de mes clients. Ceux-ci auraient alors à acquitter un tarif plus élevé que celui des abonnés de Montréal, tout en étant privés du service supplémentaire."

Résultats d'exploitation

L'audience de Toronto portait surtout sur les services et prix de transport de banlieue intéressant la région de Toronto. Les seuls services de banlieue, dans cette région, sont assurés par le National-Canadien, qui a déposé au sujet de ces services et qui a fourni plus tard d'autres renseignements à cet égard. Il en a également fourni au sujet de son service de banlieue le plus important, celui de Montréal-Saint-Eustache. Le Pacifique-Canadien a déposé quant à son service de banlieue Montréal-Vaudreuil-Rigaud.

Les témoignages embrassaient une statistique portant sur les recettes, dépenses et pertes, sur le nombre d'abonnés et de détenteurs de passe transportés, sur les projections et les effets attendus, sur le revenu, de la majoration de tarif proposée, ainsi que sur des comparaisons entre le tarif de banlieue et celui des autobus et autres. Je me dispense d'exposer ces témoignages par le menu, mais je m'en sers pour établir des conclusions que je crois nécessaires aux fins de la demande, dans la mesure où celle-ci intéresse la région de Toronto.

Nous fondant surtout sur les chiffres de 1953 relatifs aux recettes d'exploitation et aux frais d'exploitation pour les services de chemin de fer de banlieue Toronto-Oakville, chiffres officiellement fournis au cours de l'audience, et par la suite pour répondre aux demandes énoncées par la Commission, nous constatons que, d'après les chiffres établis par projection pour une année réelle,—

en prenant pour acquit d'abord, aux fins de la demande en cause, que se maintiendra le volume du trafic pour 1953 et après avoir effectué tous rajustements à l'égard *a*) des équivalents des recettes provenant des

détenteurs de permis de circulation gratuite d'après les majorations demandées quant aux cartes d'abonnement de 40 voyages, b) de l'exploitation des wagons des services d'abonnés transformés et autres économies possibles et pratiques quant aux frais d'exploitation, et c) de la nouvelle répartition des dépenses de la gare terminus de Toronto—

l'octroi intégral des majorations actuellement recherchées par les demandeurs au chapitre du tarif des cartes d'abonnement pour les services d'abonnés de la région de Toronto se traduirait par des recettes brutes insuffisantes, du moins au début, pour couvrir les déboursés directs d'exploitation, compte non tenu de cet élément de frais inévitable que constitue la dépréciation du matériel utilisé pour ces services de chemin de fer de banlieue ni, à plus forte raison, du rapport des capitaux engagés dans ce matériel en fonction du "prix de l'argent" ou de tout autre principe d'ordre financier.

Permis de circulation gratuite

Au cours de cette instruction, comme lors de cas antérieurs intéressant les tarifs de services de banlieue, il a été question des détenteurs de permis de circulation gratuite de chemin de fer de banlieue. L'Association d'Oakville ne trouvait pas à redire à ce que le chemin de fer accorde des permis de circulation gratuite à ses employés. M. Morris, porte-parole de l'Association, a exprimé ainsi ce contre quoi elle s'élevait (page 4036):

> "...Ce contre quoi nous nous élevons, c'est qu'on nous charge, en somme, du poids de ces gens, quand on fait entrer en ligne de compte le coût de ce service ou, pour reprendre l'expression du chemin de fer, de cette perte nette."
>
> "...Nous sommes d'avis qu'on devrait, dans l'évaluation des frais du service de banlieue, créditer tous ces permis de circulation gratuite."

Nous avons examiné de deux façons le problème que posent les détenteurs de permis de circulation gratuite: nous avons d'abord considéré les dépenses que représente, pour les chemins de fer, le transport des détenteurs de permis de circulation gratuite dans les trains d'abonnés, dépenses qui n'existeraient pas sans ce transport; nous avons ensuite examiné les recettes supplémentaires que toucheraient les chemins de fer si les détenteurs de permis de circulation gratuite acquittaient le prix de leur place. Notre objet était de déterminer ainsi les déboursés véritables attribuables au maintien des services de chemin de fer de banlieue. Les chemins de fer eux-mêmes ont exprimé leur consentement à supprimer du calcul des frais toutes dépenses attribuables au transport des détenteurs de permis de circulation gratuite.

Nous avons pris pour acquis, dans nos calculs, que les détenteurs de permis de circulation gratuite acquittent le même prix que les abonnés, faisant tomber du même coup la prétention qu'ont ces derniers de ne pas être appelés à faire les frais de transport des détenteurs de permis de circulation gratuite.

Tarif dégressif

L'avocat de l'Association d'Oakville a exprimé l'avis qu'il est juste et raisonnable d'adopter un tarif dégressif pour les abonnements et il a insisté pour qu'on songe à l'adoption d'un tel tarif.

Le tarif dégressif est plus facilement susceptible d'application là où la distance jusqu'aux points de transport les plus éloignés est considérable et où il existe un trafic-abonnés jusqu'à la fin de la course. En l'occurrence, bien que les trains d'abonnés se rendent jusqu'à Hamilton (une distance de quelque 40 milles) presque tout le trafic-abonnés cesse une fois qu'on a atteint Oakville (à quelque 21 milles de Toronto).

Ceux qui parcourent de longues distances bénéficieraient d'un taux dégressif, dont le poids pèserait sur ceux qui font un court trajet. Comme il ne peut s'agir pour l'instant que de conjectures quant à la question de savoir si la majorité des abonnés sont en faveur d'un régime de tarif dégressif et quant aux effets qu'aurait un tel régime, j'estime que la Commission ne devrait pas doter d'un tarif dégressif le régime actuel d'abonnements tant qu'elle n'aura pas, pour ce faire, de motifs plus valables que ceux qui existent à l'heure actuelle. Cependant, nous ferons une étude plus poussée de la question et nous avons prié les chemins de fer d'en faire autant.

CONCLUSIONS

J'ai déjà exposé nos conclusions quant au résultat sur le plan des recettes, qu'entraînerait pour la région de Toronto l'adoption intégrale de la majoration des prix d'abonnement que veulent obtenir les chemins de fer.

En matière de services de chemin de fer de banlieue, je crois le moment venu de reconnaître, d'une façon générale, qu'un chemin de fer a le droit de demander des prix d'abonnement répondant au moins aux déboursés raisonnables qu'il effectue pour assurer le service de banlieue en cause et que la Commission ne devrait pas l'obliger à assurer ou à continuer d'assurer des services de banlieue qui ne supportent pas de tels déboursés.

Dans l'état actuel des choses, rien ne m'autorise à refuser au National-Canadien le droit d'exiger, dans la région de Toronto, un tarif d'abonnement suffisant pour lui permettre de rentrer dans les déboursés qu'il a raisonnablement et effectivement effectués pour assurer les services de banlieue dans cette région. C'est le service d'Oakville-Toronto qui me sert de norme pour la région.

Cependant, une majoration trop brusquée du tarif des abonnements pourrait, en raison de la perte de clientèle qu'elle provoquerait, se traduire par un revenu moindre que celui qu'apporterait une augmentation graduelle. Selon la proposition des chemins de fer, on aurait commencé par appliquer les prix du Tarif "A", pour passer, six mois plus tard, à ceux du Tarif "B". L'avocat de l'Association d'Oakville a proposé une autre méthode: appliquer d'abord la moitié de toute majoration autorisée, le quart six mois plus tard et le reste après un autre délai de six mois. A mon avis, cette solution répondrait mieux aux intérêts communs des abonnés et des chemins de fer que la solution proposée par ceux-ci. Je suis d'avis que le National-Canadien devrait être autorisé à reviser les prix des abonnements, pour la région de Toronto, dans le sens indiqué au Tarif "B"; cependant, compte tenu de toutes les circonstances, je crois que, pour ce qui est du moment de l'entrée en vigueur de cette revision, il faudrait s'en tenir aux conditions énoncées au paragraphe suivant.

J'estime donc qu'il convient d'annuler l'ordonnance nº 75234, dans la mesure où elle vise la région de Toronto, et d'autoriser les chemins de fer Nationaux du Canada à porter les prix des abonnements, dans cette région, au niveau du Tarif "B", la majoration s'appliquant, après avis réglementaire, en trois étapes: la moitié environ de la majoration s'appliquera au plus tôt le 30 septembre 1954, le quart environ au plus tôt six mois à compter de la date d'application du premier relèvement et la dernière partie de la majoration au plus tôt à l'expiration d'un autre délai de six mois.

L'audience qui nous occupe a contribué à faire ressortir le problème urgent que pose l'encombrement des voies ferrées dans la région de Toronto et combien il importe de ne négliger aucun moyen de l'alléger.

Considérations importantes que celle des moyens à prendre pour répondre de façon plus efficace aux besoins d'un nombre sans cesse croissant d'abonnés et celle de la mesure dans laquelle les chemins de fer peuvent apporter au moins une solution partielle à ce difficile problème.

A cet égard, l'audience a eu pour effet de mettre en branle l'appareil qui permettra d'effectuer une étude complète et prompte de la situation grâce à l'initiative concertée du ministre de la Voirie et autres fonctionnaires du gouvernement ontarien, du *Board of Trade* de Toronto, de l'*Oakville Commuters Association,* ainsi que des membres et du personnel de la Commission, pour ne nommer que ceux-là.

Mais ce serait nous abuser que de croire qu'il suffira de quelques semaines pour obtenir des résultats durables. M. Tolchard voit juste, je crois, quand il dit: "Je pense que, si nous nous y mettons vraiment, nous pourrons trouver quelque chose dans un délai de six mois." La façon dont on aborde pareilles difficultés influe fortement sur la façon dont on en sortira, et je tiens à répéter ici la satisfaction que la Commission a exprimée verbalement à l'égard de l'attitude pratique que toutes les parties qui ont déposé devant nous ont adoptée en face d'un problème dont personne ne se dissimule la difficulté et à redire notre espoir qu'il en découlera d'heureux résultats où tous les intéressés trouveront leur compte.

Les commissaires MacPherson et Chase, étant actuellement absents d'Ottawa, ne peuvent apposer leur signature au présent jugement, mais ils m'ont autorisé à déclarer qu'ils y souscrivent.

JOHN D. KEARNEY.

Approuvé par:
A. SYLVESTRE

Approuvé par:
O. A. MATTHEWS

Le 4 août 1954.

SYLVESTRE, commissaire en chef suppléant

J'ai souscrit au jugement dont il est question aux présentes, mais je tiens à ajouter quelques mots d'explication.

En 1950, j'ai pris part aux audiences relatives aux demandes que les chemins de fer avaient présentées en vue de relever le tarif des abonnements et j'ai souscrit au jugement du 21 septembre 1950, consigné à 66 C.R.T.C. 98 et qui établissait le tarif des abonnements actuellement existant. A l'époque, nous n'avons pas autorisé intégralement les majorations recherchées par les chemins de fer. A mon avis, les dépositions des chemins de fer n'emportaient pas conviction quant aux déboursés réels au titre des frais d'exploitation des services de banlieue et, comme il est dit au jugement subséquent du 1er février 1951, consigné à 66 C.R.T.C. 145, les renseignements qui nous étaient soumis ne me permettaient pas de conclure que le tarif majoré que nous autorisons serait insuffisant pour couvrir ces frais. Dans le présent cas, on nous a démontré l'existence d'un état de choses différent et le National-Canadian nous a fourni des renseignements plus complets et plus convaincants qu'en 1950 quant aux déboursés qu'il doit effectuer pour assurer le service entre Toronto et Oakville, et j'estime que le tarif majoré actuellement recherché serait en l'occurrence insuffisant, comme il est dit dans le jugement, pour couvrir de tels déboursés au chapitre des frais d'exploitation.

Le 4 août 1954.

A. SYLVESTRE.

ORDONNANCE N° 84223

LA COMMISSION DES TRANSPORTS DU CANADA

MERCREDI, le 4e jour d'août, A.D. 1954.

L'hon. Juge JOHN D. KEARNEY, *Commissaire en chef.*
A. SYLVESTRE, C.R., *Commissaire en suppléant.*
O. A. MATTHEWS, *Commissaire.*

Au sujet de la demande de la Canadian Passenger Association, *en date du 13 mai 1954, et de ses lignes membres y mentionnées, en vue d'une ordonnance annulant l'Ordonnance n° 75234, en date du 22 septembre 1950, relativement au tarif des abonnements:*

Dossier n° 29984·18

et

*Au sujet de la demande de l'*Oakville Commuters Association *qui se plaint que le service de trains de banlieue actuellement assuré par les chemins de fer Nationaux du Canada entre Toronto et Oakville, entre Montréal et Ste-Anne-de-Bellevue et entre Montréal et St-Eustache-sur-le-lac place la région de Toronto-Oakville sur un pied d'infériorité par rapport aux autres régions et qui réclame l'adoption d'une ordonnance enjoignant aux chemins de fer Nationaux du Canada de doter de plus de trains le service de banlieue entre Oakville et Toronto:*

Dossier n° 12758·120

Après avoir entendu l'avocat et les représentants de l'*Oakville Commuters Association, la Canadian Passenger Association,* les chemins de fer Nationaux du Canada, la Compagnie de chemin de fer du Pacifiique-Canadien, la *New York Central Railroad Company* et le *Board of Trade* de Toronto—

Il est ordonné

1. Que ladite demande de l'*Oakville Commuters Association* soit rejetée, et elle est rejetée par les présentes.

2. Que l'Ordonnance n° 75234, en date du 22 septembre 1950, soit annulée, et elle est par les présentes annulée, dans la mesure où elle s'applique à la région de Toronto, y compris Toronto-Oakville, Toronto-Weston, Toronto-Port-Union et Toronto-St. Clair Avenue.

3. Que les chemins de fer Nationaux du Canada peuvent reviser leur tarif pour le trafic-voyageurs de banlieue dans ladite région de Toronto en conformité du présent jugement portant la date du 4 août 1954.

JOHN D. KEARNEY,
Commissaire en chef,
La Commission des transports du Canada.

Application of the Bell Telephone Company of Canada for approval of extended area service of the Boucherville, P.Q., exchange with the Montreal and Longueuil exchanges.

File C. 955·170

JUDGMENT

By the Board:

By application dated the 10th August, 1954, the Bell Telephone Company of Canada submits for approval its plan to accord to subscribers of the Boucherville, P.Q., exchange free calling privileges with the Montreal and Longueuil exchanges, which extended service could be introduced early in 1956.

The extended area service plan contemplated by this application is the same as those approved by us in respect of the Montreal area, i.e. Vol. 41 Board's Judgments, Orders, Regulations and Rulings, p. 1, and as approved March 12th, 1954 for the Laprairie exchange, 44 J.O.R. & R, p. 33.

In the instant case the Boucherville exchange subscribers will have free calling with the Montreal exchange and laterally with the Longueuil exchange. Such free calling privileges, however, do not apply to other exchanges in the Montreal area which have extended area service with the Montreal exchange. In such cases regular toll rates apply.

Subscribers in the Boucherville exchange were canvassed and provided with ballots upon which to indicate their acceptance or non-acceptance of the plan. A total of 504 ballots were provided, comprising the total subscribers in the exchange. Of this total 458 ballots were returned completed. 439 subscribers voted in favour of the plan and 19 voted in opposition. The affirmative votes constitute 95·8 per cent of the total ballots distributed.

The basic consideration of the company's plan for the extended service is that the Montreal exchange rates will apply. The acceptance of the plan as above stated includes a willingness to pay such rates.

Upon what has been submitted it is evident that a substantial majority of the affected subscribers are in favour of the extended area plan and are willing to incur payment of Montreal exchange rates. Our approval is accordingly hereby given to the Company's proposal. Tariffs to implement the same are to be filed to take effect on not less than thirty days' notice. No order is necessary at this time.

A. SYLVESTRE,

FRANK M. MACPHERSON.

Ottawa, August 13, 1954.

ORAL JUDGMENT

Delivered at conclusion of hearing at Ottawa, August 17, 1954.

In the matter of the applications of the Government of Alberta and the Chrysler Corporation of Canada, Limited, for an Order of the Board directing that appropriate officers of the C.P.R. and C.N.R. and appropriate officers of General Motors of Canada, Limited, and the Studebaker Corporation of Canada, Limited, attend for examination at the instance of the Applicants for the purposes of discovery before such member or officer of the Board as the Board may direct.

File No. 40994·60

SYLVESTRE, A., *Deputy Chief Commissioner*

We have reached a decision on these applications for examination for discovery and we will indicate now what our decision is. The Applicants have not satisfied us that examination for discovery is necessary or that the usual practice followed heretofore in applications before the Board will not meet the situation or that the applications for examination for discovery should be granted. The applications are therefore refused. However, this does not preclude these applicants from requesting the railways to furnish such particulars and information as is proper to be given before the hearing and we are confident that the railways will be willing to meet any reasonable request of that kind. That practice has been followed on a number of occasions in the past and we consider that it will meet the needs of the parties in this matter also if they wish to avail themselves of it.

There will be an opportunity to make such request, for the Board has decided to postpone the hearings on the five applications of the Canadian Freight Association which were set down for hearing on August 24, next. The Assistant Chief Commissioner presided at the hearing of two applications in respect of agreed charges on cast iron pipe and canned goods in November last and subsequently gave judgments therein, and the Board is of the view that he should also preside at the hearings set down for August 24, provided that this would not unduly delay the disposition of the applications for approval of the agreed charges concerned. Mr. Wardrope is presently absent from Ottawa but is expected to return about the middle of September. The hearings of the applications set down for August 24 will therefore be postponed until a date as soon as possible after his return. New notices of the hearings will be sent in due course.

As to the railway's objection that the Government of Alberta is not a shipper and has no status before the Board, that is an issue which can more appropriately be dealt with at the hearing of the application for approval of the agreed charge than at this hearing, particularly as the applications for examination for discovery are being dismissed for reasons other than the status of the Government of Alberta, and the issue is also raised in other applications which are not the subject of the applications for discovery today.

A. SYLVESTRE.

Concurred in by Commissioners F. M. MACPHERSON and O. A. MATTHEWS.

ORDER No. 84454

In the matter of the application of The J. W. Windsor Co. Limited and The Baxter Canning Company, Limited, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 1st day of September, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their businesses will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for The J. W. Windsor Co. Limited and The Baxter Canning Company Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 84455

In the matter of the application of Canadian Petrofina Limited, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 52 as approved by the Board:

File No. 40994·40

WEDNESDAY, the 1st day of September, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 52, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for Canadian Petrofina Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 52 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 84487

In the matter of the application of the British Columbia Telephone Company under the provisions of Chapter 66 of the Statutes of Canada 6-7 Geo. V, as amended by Chapter 36 of 4-5 Geo. VI, Chapter 86 of II Geo. VI and Chapter 85 of 15 Geo. VI for an Order approving the terms and conditions of the issue and sale or other disposition of a total number of preferred shares of its capital stock not to exceed fifty thousand (50,000) shares of par value of $100.00 each.

File No. 29885·13

WEDNESDAY, the 8th day of September, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Ottawa on the 8th day of September, 1954, in the presence of Counsel for the Applicant Company, no one appearing in opposition; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in the *Canada Gazette*, and its appearing that the proposed issue is necessary for the purpose of financing the capital requirements of the Applicant Company and to meet existing obligations and commitments.

It is ordered

1. That approval be, and it is hereby given to the issue and sale of not more than 50,000 preferred shares of the capital stock of the Applicant Company as and when the Directors of the Applicant Company may in their discretion decide, at a price not less than One Hundred Dollars per share, such preferred shares to bear a rate of dividend not greater than four and one-half per cent per annum.

2. That approval be, and it is hereby given to the payment by the Applicant Company of a commission to the underwriters of $3.50 per share.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JULY, 1954

Railway Accidents	236	Killed	16	Injured	479
Level Crossing Accidents	28	Killed	14	Injured	33
Total	264		30		512

	Killed	*Injured*
Passengers	2	263
Employees	7	211
Others	21	38
Total	30	512

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NOVA SCOTIA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 92453.
2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-18873.
—	1	Passenger of automobile jumped from rear door of same and was struck by train. Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 39-984.
		NEW BRUNSWICK
—	1	Auto truck ran into side of train. Licence: N.B. C-24763.
		QUEBEC
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-33941.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-55883.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ohio RE-273.
—	1	Horse-drawn wagon driven onto crossing and was struck by train.
—	1	Automobile struck by track car. Licence: Que. 301-348.
		ONTARIO
1	—	Automobile ran into side of train. Licence: N.Y. 650-8794.
—	1	Cyclist ran into side of train.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 4714-B.
2	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-6073.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 58-H-81.
—	1	Automobile ran into side of train. Licence: Ont. 789-G.
—	11	Tractor trailer drove onto crossing in front of approaching Budd car and was struck. Licence: Ont. C-6224.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 683-X-1.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Automobile ran into side of train. Licence: Ont. 191-X.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile ran into side of train. Licence: Ont. 158-J-9.
		MANITOBA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 4-D-939.
		SASKATCHEWAN
—	1	Automobile ran into track motor car. Licence: B.C. 27849.
1	—	Gravel truck struck by track motor car. Licence: Sask. C-4-454.
		BRITISH COLUMBIA
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 1-E-988.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 99-185.

Of the 28 accidents at Highway crossings, 20 occurred at unprotected crossings, and 8 at protected crossings. Twenty-three occurred after sunrise and five after sunset.

OTTAWA, Ontario, September 3, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84392 Aug. 20—Permitting the removal of slow order at C.N.R. crossing east of Maisonneuve station, Montreal East, Quebec.

84393 Aug. 20—Permitting the removal of slow order at C.N.R. crossing of Metropolitan Boulevard at Turcot West, Town of Montreal West, Quebec.

84394 Aug. 20—In the matter of application of the C.N.R. for an Order authorizing the construction of a private siding to serve Canadian Petrofina Limited across 3rd Avenue, in the Town of Pointe aux Trembles, Quebec.

84395 Aug. 20—In the matter of application of the C.P.R. for an Order approving operation of its trains over a private siding serving the City of Winnipeg, Manitoba.

84396 Aug. 20—Authorizing the C.P.R. to discontinue the operation of passenger trains Nos. 105 and 106 between Winnipeg, Manitoba, and Binscarth, Manitoba, etc.

84397 Aug. 20—Authorizing the Western Pipe Lines to construct its company pipe line across Desjardins Canal at a site within the Township of West Flamboro, County of Wentworth, Ontario.

84398 Aug. 20—Authorizing the Western Pipe Lines to construct its company pipe line across Spencer Creek, Township of Ancaster, Town of Dundas, Ontario.

84399 Aug. 20—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84400 Aug. 20—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84401 Aug. 23—In the matter of application of the C.P.R. for authority to make changes in the operating circuit of the protection at the crossing of Highway No. 69, near MacTier, Ontario.

84402 Aug. 23—Authorizing the C.N.R. to operate over the timber trestle bridge in the Province of Saskatchewan, at mileage 8·4 Rhein Subdivision.

84403 Aug. 23—Relieving the C.P.R. from erecting and maintaining cattle guards at the crossing of its railway and the highway at mileage 22·07, Altawan Subdivision, Saskatchewan.

84404 Aug. 23—Approving operation of the C.P.R. trains over the private siding serving the Gulf Iron & Metal Company Limited, City of Quebec, Quebec.

84405 Aug. 23—Authorizing the C.N.R. to operate the bridge over Cottonwood Creek, Sask., at mileage 11·0 Central Butte Subdivision.

84406 Aug. 23—In the matter of application of the C.N.R. for an Order authorizing the removal of the speed restriction at the crossing of Highway No. 21, at mileage 54·64 Owen Sound Subdivision, Ontario.

84407 Aug. 23—Authorizing the British American Oil Company Limited to construct a natural gas line across the right-of-way of the Interprovincial Pipe Line Company, in the northeast quarter of Section 5, Township 53, Range 23, W4M, Alberta.

84408 Aug. 24—Permitting the removal of slow order at C.P.R. crossing and Bloor Street at Islington, Ontario.

84409 Aug. 24—In the matter of application of the C.N.R. for an Order approving the closing of the agency at Venn, Saskatchewan.

84410 Aug. 24—In the matter of application of the C.N.R. for authority to remove the station agent at Pinkham, Saskatchewan.

84411 Aug. 24—In the matter of application of the Express Traffic Association of Canada for approval of proposed Supplement No. 6 to Express Classification No. 9.

84412 Aug. 25—In the matter of application of the C.N.R. for authority to operate under the overhead bridge over their railway in the Township of Orillia at mileage 44·92 Midland Subdivision, Ontario.

84413 Aug. 25—Approving under the Maritime Freight Rates Act, tolls published in tariff filed by the Canadian Freight Association under Section 3.

84414 Aug. 25—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under Section 3.

84415 Aug. 25—Approving under the Maritime Freight Rates Act, tolls published in tariff filed by the C.P.R. under Section 8.

84416 Aug. 25—In the matter of application of Western Pipe Lines for leave to construct its pipe line across all highways, railways, pipe lines of the Sun Canadian Pipe Line Company Limited, Imperial Oil Limited, and United Gas and Fuel Company of Hamilton Limited.

84417 Aug. 26—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., for storage of inflammable liquids at Humboldt, Saskatchewan.

84418 Aug. 26—In the matter of application of the Town of Lennoxville, Quebec, for an Order authorizing the widening of College Street along the west side of the right-of-way of the C.N.R. in the Town of Lennoxville, Quebec.

84419 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canada and Gulf Terminal Railway Company under Section 8.

84420 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 8.

84421 Aug. 26—In the matter of application of the C.N.R. for authority to close Huxley, Alberta, as an agency station.

84422 Aug. 26—Authorizing the Town of New Waterford, N.S., to construct 8th Street across the right-of-way of the Sydney and Louisburg Railway Company in the Town of New Waterford, Nova Scotia.

84423 Aug. 26—In the matter of application of the County of Welland, Ontario, for authority to construct West Side Road across the C.N.R. right-of-way by means of an overhead bridge in the County of Welland, Ontario.

84424 Aug. 26—In the matter of approval of plan submitted to the C.N.R. by the Canadian Petrofina Limited, showing proposed location of storage tanks, etc., at Federal, Ontario.

84425 Aug. 27—In the matter of application of the Toronto, Hamilton and Buffalo Railway Company for approval of plans showing the signals as installed between Aberdeen Yard and Coyle, Ontario.

84426 Aug. 27—In the matter of application of Trans Mountain Oil Pipe Line Company for an Order granting leave to open that section of its pipe line which commences at a point in the vicinity of Sumas, B.C., to a point on the International Boundary in the vicinity of Huntingdon, British Columbia.

84427 Aug. 27—In the matter of application of the C.N.R. for an Order extending the time within which they were required to install certain protection at the crossing of the highway in the Village of Villeneuve, Quebec.

84428 Aug. 27—Permitting the removal of slow order at C.P.R. crossing and Highway No. 97, west of the City of Galt, Ontario.

84429 Aug. 27—In the matter of the application of the New Brunswick Department of Public Works for the installation of automatic protection at the crossing of Route No. 11 and the C.N.R. near Caraquet Station, New Brunswick.

84430 Aug. 27—In the matter of the application of the Toronto and York Roads Commission for the installation of protection at the crossing of C.N.R. and the Highway, north of station at Pefferlaw, Ontario.

84431 Aug. 27—Authorizing the C.P.R. to remove the caretaker at Pearl, Ontario.

84432 Aug. 27—Authorizing the City of Calgary, Alberta, to lower the level of the roadway and sidewalks in the subway under the railway of the C.P.R. at 8th Street, Calgary, Alberta.

84433 Aug. 30—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the Canadian Freight Association under Sections 3 and 8.

84434 Aug. 30—Permitting the removal of slow order at C.N.R. crossing at mileage 41·12 Rimouski Subdivision, in the Province of Quebec.

84435 Aug. 30—Authorizing the C.N.R. to reconstruct the bridge at Riviere du Loup, Quebec.

84436 Aug. 30—Permitting the removal of slow order at C.N.R. crossing and Bridge Street, east of the station at Windsor Mills, Quebec.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 84509

In the matter of the application of the Canadian Freight Association, dated August 6, 1954, for approval of Supplement No. 8 to Agreed Charge tariff C.T.C. (AC) No. 62:

File No. 40994·47

FRIDAY, the 10th day of September, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 8 to Agreed Charge Tariff C.T.C. (AC) No. 62 on file with the Board under file No. 40994·47, be, and it is hereby, approved; and that the date as from which the said Supplement No. 8 shall be deemed to have become operative is hereby fixed as August 9, 1954.

A. SYLVESTRE,
Deputy Chief Commissioner.

95113—1

ORDER No. 84558

In the matter of the application of Waupoos Canning Co. Limited, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

THURSDAY, the 16th day of September, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for Waupoos Canning Co. Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

GENERAL ORDER No. 802

In the matter of the application of the Executive Council of the Province of Alberta for an Order amending Appendix "C" of General Order No. 581:

File No. 40994

WEDNESDAY, the 25th day of August, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That Appendix "C" of General Order No. 581 be, and it is hereby, amended by adding immediately after number 18 on the list therein the following:

"18A. Alberta Freight Bureau, 203 Alberta Jasper Building, Edmonton, Alberta."

2. That General Order No. 800, dated July 8, 1954, be, and it is hereby, rescinded.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84437 Aug. 31—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Edam, Saskatchewan.

84438 Sept. 8—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Mundare, Alberta.

84439 Aug. 31—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Wainwright, Alberta.

84440 Aug. 31—Permitting the removal of slow order at C.P.R. crossing east of English River, Ontario.

84441 Aug. 31—Approving proposed location of storage tanks of North Star Oil Limited, near the C.N.R. tracks at Debden, Saskatchewan.

84442 Aug. 31—In the matter of the application of the Village of St. Gedeon, Que., for the installation of automatic protection at crossing of the C.N.R. and the highway, north of the station at St. Gedeon, Que.

84443 Aug. 31—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Radisson, Saskatchewan.

84444 Aug. 31—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Rivers, Manitoba.

84445 Aug. 31—Permitting the removal of slow order at C.P.R. crossing of Highway No. 45, east of the Station at Willingdon, Alberta.

84446 Aug. 31—Approving proposed location of storage tanks, etc., of the St. Lawrence Propane Limited, near the tracks of the C.N.R. at Pembroke, Ontario.

84447 Aug. 31—In the matter of the application of the C.P.R. on behalf of New Superior Oils of Canada Limited, for temporary permit to load crude oil into tank cars from tank trucks near Ullin, Alberta.

84448 Sept. 1—Granting leave to Western Pipe Lines to construct its pipe line across certain highways, railways and utility lines shown on plan on file with the Board.

84449 Sept. 1—In the matter of the application of Western Pipe Lines, for leave to construct its pipe line across three pipe lines of the Dominion Natural Gas Company Limited.

84450 Sept. 1—In the matter of the application of the C.N.R. for authority to remove the agent and appoint a caretaker at Caldwell, Ontario.

84451 Sept. 1—In the matter of approval of plans submitted by the Northern Alberta Railways Company on behalf of Canadian Gulf Oil Company showing facilities for the loading of crude oil at Kenzie, Alberta.

84452 Sept. 1—In the matter of the application of the CN.R. for approval of plan showing the installation of a cross-over and siding within the operating circuit at the crossing of their railway and Norfolk Street, Simcoe, Ontario.

84453 Sept. 1—Authorizing the Township of North York, Ontario, to construct a public crossing over the right-of-way of the C.N.R. on Kincourt Street, Township of North York, Ontario.

84454 Sept. 1—In the matter of application of The J. W. Windsor Co. Ltd., and The Baxter Canning Co. Ltd., for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62.

84455 Sept. 1—In the matter of the application of Canadian Petrofina Limited, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 52.

84456 Sept. 1—In the matter of the application of the Quebec North Shore and Labrador Railway Company for approval of Signal Profile showing the signals proposed to be installed between mileage 220 and mileage 340, in the Provice of Newfoundland.

84457 Aug. 31—In the matter of the application of Irish Shipping Limited *re* issuance of through Bills of Lading by railway companies for export traffic.

84458 Sept. 2—Permitting the removal of slow order at New York Central Railroad Company crossing of Concession Road, east of the station at West Lorne, Ontario.

84459 Sept. 2—In the matter of the application of the C.N.R. for authority to construct a bridge over the proposed canal at mileage 45·24 Middleton Subdivision, Nova Scotia.

84460 Sept. 2—Authorizing the C.N.R. to construct a penstock under their railway at mileage 49·59 Middleton Subdivision, Nova Scotia.

84461 Sept. 2—Approving operation of C.P.R. trains over the private siding serving Stanley Brock Limited in the Manchester Industrial Area, Calgary, Alberta.

84462 Sept. 2—In the matter of the application of the C.P.R. for an Order approving the operation of its trains over a private siding serving Canadian Western Natural Gas Company, Limited, in the Manchester Industrial Area, Calgary, Alberta.

84463 Sept. 2—Approving operation of C.P.R. trains over the private siding serving Canadian Industries Limited in the Manchester Industrial Area, in the City of Calgary, Alberta.

84464 Sept. 2—Authorizing the Quebec Central Railway Company to operate its trains over the relocated portion of its Quebec Subdivision between mileage 64·02 and mileage 72·51.

84465 Sept. 2—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc., at Prince George, British Columbia.

84466 Sept. 2—Authorizing the C.N.R. to make changes to automatic block signals 439 and 458 at Wyoming, Ontario.

84467 Sept. 2—In the matter of the application of the Northern Alberta Railways Company, for a report to the Governor in Council upon By-law No. 11, containing Rules and Regulations governing Operation, Traffic and Nuisances.

84468 Sept. 2—Authorizing the City of Windsor, Ontario, to widen Grand Marais Road in the City of Windsor, Ontario, where it crosses the C.N.R., C.P.R., and The Chesapeake and Ohio Railway Company.

84469 Sept. 3—Approving revised plan showing the protection as installed at the crossing of the C.N.R. and Sir Wilfrid Laurier Highway, St. Hyacinthe, Quebec.

84470 Sept. 3—In the matter of the application of the C.P.R. for exemption from erecting and maintaining cattle guards at certain highway crossings on its Neudorf Subdivision.

84471 Sept. 3—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited, showing proposed location of storage tanks, etc., at Drake, Saskatchewan.

84472 Sept. 3—In the matter of the application of the Department of Roads of the Province of Quebec, authorizing the relocation of Highway No. 45 where it crosses the C.N.R. near Villemontel, Quebec.

84473 Sept. 3—In the matter of the application of the C.N.R. for approval of clearances at the siding serving the Atlas Construction Co. Ltd., New Brunswick, at mileage 93·23 Grand Falls Subdivision.

84474 Sept. 3—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

84475 Sept. 3—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Bredenbury Subdivision, Manitoba.

84476 Sept. 3—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along a certain public highway in the Township of North Dorchester, County of Middlesex, Ontario.

84477 Sept. 7—In the matter of the application of the Ontario Department of Highways, for an Order amending Order No. 81846 dated July 22, 1953, which apportioned the costs of the automatic protection at the crossing of Middle Road and the C.N.R., in the Township of Trafalgar, County of Halton, Ontario.

84478 Sept. 7—In the matter of the application of the B.C. Dept. of Public Works, for an Order authorizing the construction of the highway across the C.P.R. near Larkin, British Columbia.

84479 Sept. 7—In the matter of the application of C.N.R. for approval of locations of station to be erected at Lynn Lake, Manitoba.

84480 Sept. 7—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 25, at mileage 14·49, Rapid City Subdivision, Manitoba.

84481 Sept. 7—In the matter of the application of the C.N.R. for an Order amending Order No. 84301 dated August 5, 1954, which authorized the construction of a branch line of railway, St. Boniface, Manitoba.

84482 Sept. 7—In the matter of the application of the C.N.R. for authority to reconstruct the timber trestle over the Turtle River, Manitoba.

84483 Sept. 7—In the matter of application of the township of North York, Ontario, for installation of automatic protection at crossing of York Mills Road and the C.N.R.

84484 Sept. 7—Authorizing the C.N.R. to make changes in the automatic protection at the crossing of 118th Avenue, Edmonton, Alberta.

84485 Sept. 7—In the matter of the application of the C.N.R. for approval of the location of their passenger shelter at Port Edward, British Columbia.

84486 Sept. 8—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under section 8.

84487 Sept. 8—In the matter of the application of the British Columbia Telephone Company for an Order approving the terms and conditions of the issue and sale of preferred shares of its capital stock.

84488 Sept. 8—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Meota, Saskatchewan.

84489 Sept. 8—In the matter of approval of plan submitted to the C.N.R. by the British American Oil Company Limited, showing the proposed location of truck loading facilities, etc., at Montreal East, Quebec.

84490 Sept. 8—In the matter of the application of the C.N.R. for an Order approving the operation of their trains over a private siding of Paisley Products of Canada Limited, Township of Scarborough, Ontario.

84491 Sept. 8—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Vilna, Alberta.

84492 Sept. 8—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Rosthern, Saskatchewan.

84493 Sept. 8—Permitting the removal of slow order at London & Port Stanley Railway crossing, immediately south of the shelter at Glanworth, Ontario.

84494 Sept. 8—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

84495 Sept. 8—In the matter of approval of plan submitted by the C.P.R. showing the proposed location of storage tank, etc., at Wellcox, B.C.

84496 Sept. 8—In the matter of the application of the Department of Public Works, Canada, for approval of the Operating Rules and Instructions for the Fraser River Bridge, New Westminster, B.C.

84497 Sept. 9—In the matter of the application of the C.N.R. for an Order authorizing them to operate under the overhead bridge at mileage 5·7 Oakville Subdivision, Ontario.

84498 Sept. 9—In the matter of the application of the C.N.R. for an Order extending the time within which it was required by Order No. 83449, to install automatic protection at the crossing of Merritt Street, Merritton, Ontario.

84499 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Ryley, Alberta.

84500 Sept. 9—In the matter of the application of the Saskatchewan Power Corporation, for leave to construct a power line across the right-of-way of the Interprovincial Pipe Line Company, Province of Saskatchewan.

84501 Sept. 10—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway Nos. 7 and 8, east of the station at Baden, Ontario.

84502 Sept. 10—Authorizing the Canadian Northern Railway to construct a siding across the road diversion near Bretville Junction, Alberta.

84503 Sept. 10—Relieving the C.N.R. from erecting and maintaining right-of-way fencing between certain mileages on their Blaine Lake Subdivision, Saskatchewan.

84504 Sept. 10—Permitting the removal of slow order at C.N.R. crossing of St. Clair Avenue East, in the Town of Scarboro, Ontario.

84505 Sept. 10—Permitting the removal of slow order at C.N.R. crossing of Highway No. 15, west of station at Semans, Saskatchewan.

84506 Sept. 10—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Dominion Atlantic Railway Company under section 8.

84507 Sept. 10—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location storage tanks, etc., at Speers, Saskatchewan.

84508 Sept. 10—In the matter of approval of plan submitted to the C.P.R. showing proposed location of storage tanks, etc., at Moose Jaw, Saskatchewan.

84509 Sept. 10—In the matter of application of Canadian Freight Association for approval of Supplement No. 8 to Agreed Charge tariff C.T.C. (AC) No. 62.

84510 Sept. 10—In the matter of application of British Columbia Electric Railway Company, Limited, for approval of Standard Passenger Tariff C.T.C. No. 54 applying between stations on the Vancouver & Lulu Island Railway Company.

84511 Sept. 10—In the matter of application of C.N.R. for an Order authorizing the reconstruction of the bridge at mileage 9·5, Cornwall Subdivision, Dorval, Quebec.

84512 Sept. 10—Authorizing the C.N.R. to construct a siding along Esplanade Street, Toronto, Ontario.

84513 Sept. 13—Permitting the removal of slow order at C.P.R. crossing of Highway No. 13, east of station at Pangman, Saskatchewan.

84514 Sept. 13—Approving details of the Quebec Central Railway Company station proposed to be erected at Thetford Mines, Quebec.

84515 Sept. 13—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

84516 Sept. 13—In the matter of application of the C.P.R. for approval of route map showing proposed branch line of railway extending northerly from a point on its main line at Struthers, Ontario, to a point north of Manitouwadge Lake, Ontario.

84517 Sept. 13—Permitting the removal of slow order at C.P.R. crossing south of station at Ibsen, Saskatchewan.

84518 Sept. 13—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed location of storage tanks, et., at Henribourg, Saskatchewan.

84519 Sept. 13—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed location of storage tanks, etc., at Donwell, Saskatchewan.

84520 Sept. 13—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed storage tanks, etc., at Donalda, Alberta.

84521 Sept. 13—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Lacadena, Saskatchewan.

84522 Sept. 13—In the matter of application of the C.N.R. for exemption from erecting and maintaining right-of-way fencing between certain mileages on their Meskanaw Subdivision, Saskatchewan.

84523 Sept. 14—Authorizing the C.N.R. to make changes in the signalling at the interlocking at Charny, Quebec.

84524 Sept. 15—In the matter of the application of the C.N.R. for approval of plan showing proposed conversion of the old station at Croydon, B.C., into a freight and passenger shelter.

84525 Sept. 15—In the matter of the application of the C.P.R. for authority to remove the station and appoint a caretaker at Purple Springs, Alta.

84526 Sept. 15—In the matter of approval of plan submitted to the C.N.R., by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Bashaw, Alberta.

84527 Sept. 15—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of building at Kelliher, Saskatchewan.

84528 Sept. 15—In the matter of approval of plan submitted to the C.P.R., by Treherne Consumers Co-Operative Limited, showing the proposed location of storage tank, etc., at Treherne, Manitoba.

84529 Sept. 15—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canada and Gulf Terminal Railway Company under section 8.

84530 Sept. 15—In the matter of the application of the C.N.R. for approval of plan showing proposed changes in the interlocking plant of the Washago Swing Bridge at mileage 89·9 Bala Subdivision, Ontario.

84531 Sept. 15—In the matter of the application of the C.N.R. for approval of plan showing the proposed installation of signalling at the junction of the Newmarket and Brampton Subdivisions at Parkdale, Ontario.

84532 Sept. 15—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

84533 Sept. 15—In the matter of the application of the C.P.R. for approval of plans showing the location of proposed branch line of railway from Struthers, Ontario, to Manitouwadge Lake, Ontario.

84534 Sept. 15—In the matter of the application of the C.P.R. for an extension of time within which it was required by Order No. 83320, to install automatic protection at the crossing of its railway and Provincial Highway No. 6, north of the City of Regina, at Armour, Sask.

84535 Sept. 15—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84536 Sept. 15—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84537 Sept. 15—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tank, etc., at Buchanan, Saskatchewan.

84538 Sept. 15—In the matter of the applictaion of the C.P.R. for an Order relieving it from erecting and maintaining cattle guards at certain highway crossings on its Macleod Subdivision, Alberta.

84539 Sept. 15—In the matter of approval of plan submitted by the C.P.R. showing the proposed location of storage tank, etc., at Edmonton, Alberta.

84540 Sept. 15—In the matter of the application of the C.P.R. for an Order relieving it from erecting and maintaining cattle guards at certain highway crossings on its Aldersyde Subdivision, Alberta.

84541 Sept. 15—Authorizing the C.N.R. to use and operate the bridge over Mill Creek, Quebec.

84542 Sept. 16—Authorizing the C.N.R. to operate their trains through the interlocking at the crossing of their tracks at North Edmonton, Alberta.

84543 Sept. 16—In the matter of the application of the C.P.R. for exemption from erecting cattle guards at certain highway crossings on its Lomond Subdivision, Alberta.

84544 Sept. 16—In the matter of the application of The Bell Telephone Company for approval of revised Appendix to Traffic Agreement, between the applicant company and La Tuque Telephone Company.

84545 Sept. 16—In the matter of the application of the C.N.R. and C.P.R. for an Order authorizing the use and operation of the subway at Cote de Liesse Road, Dorval, Quebec.

84546 Sept. 16—Approving Supplement to Traffic Agreement between The Bell Telephone Company and La Corporation Téléphone de Québec.

84547 Sept. 16—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company and La Corporation de Téléphone de Québec.

84548 Sept. 16—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Long Lac Telephones Limited.

84549 Sept. 16—In the matter of the application of The Bell Telephone Company for approval of Supplement to Traffic Agreement between the applicant and Muriel Morin (Cumberland Telephone System).

84550 Sept. 16—Approving Supplement to Service Station Contract, between The Bell Telephone Company and The Hydro Electric Power Commission of Ontario.

84551 Sept. 16—Approving Supplement to Traffic Agreement, between The Bell Telephone Company and The Corporation of the Township of Caledon.

84552 Sept. 16—In the matter of the application of the Town of Preston, Ontario, for an Order authorizing the construction of a public crossing across the C.N.R., in the Town of Preston, Ontario.

84553 Sept. 16—Approving Appendix to Traffic Agreement between the Bell Telephone Company and Mr. M. L. Davis, Proprietor, Davis Telephone System.

84554 Sept. 16—Approving Supplement to Traffic Agreement, between The Bell Telephone Company and the Docon Telephones Limited.

84555 Sept. 16—Approving Appendix to Traffic Agreement, between The Bell Telephone Company and La Compagnie du Téléphone Saguenay-Québec.

84556 Sept. 16—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at St. Paul, Alberta.

84557 Sept. 16—In the matter of approval of plan submitted to The Essex Terminal Railway Company by Canadian Oil Companies Ltd., showing the proposed location of storage tanks, etc., at Windsor, Ontario.

84558 Sept. 16—In the matter of the application of Waupoos Canning Co. Ltd., for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62.

84559 Sept. 17—Approving location of the Quebec Central Rly's station building at Bishopton, Quebec.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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APPLICATION OF IRISH SHIPPING LIMITED *re* ISSUANCE OF THROUGH BILLS OF LADING BY RAILWAY COMPANIES FOR EXPORT TRAFFIC

File 3678·34·1

HEARD at Ottawa, June 28, 1954.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

H. E. B. COYNE, Q.C., and A. C. HILL, Q.C., for Irish Shipping Limited.

JEAN BRISSET, Q.C., for Saguenay Terminals Limited.

W. G. BOYD, for Railway Association of Canada and Canadian National Railways.

K. D. M. SPENCE, Q.C., and T. R. PENNEFATHER, for Railway Association of Canada, and Canadian Pacific Railway Co.

HUGH E. O'DONNELL, Q.C., for Canadian-United Kingdom Eastbound Freight Conference.

95114—1

JUDGMENT

WARDROPE, A.C.C.:

By its application of the 31st March, 1954, the Irish Shipping Limited (referred to hereinafter as the Applicant) states it is an incorporated company owned and controlled by the Government of the Republic of Ireland,(*) with its head office in Dublin, Ireland, and that it operates ocean-going ships in regular service between Eastern Canadian ports and ports in Ireland, England and Scotland.

The substance of its application is that the Canadian National Railways, the Canadian Pacific Railway Company, and other members of the Railway Association of Canada (referred to hereinafter as the Railways) issue through rail and ocean bills of lading for export traffic forwarded by shippers from points of origin on the railways when such traffic is to be carried from the Canadian port of export via steamship lines who are members of the Canadian-United Kingdom Eastbound Freight Conference, and deny the issuance of such bills of lading when the traffic is to be carried via steamship lines who are not members of the said Conference. The applicant is not a member of this Conference.

The applicant alleges that such practice constitutes unjust discrimination against it, in violation of Section 319 of the Railway Act, and seeks removal thereof.

The application as originally filed included an allegation of violation of Section 317 of the Act by reason of the difference in treatment accorded in *re* the collection of demurrage tolls at seaboard, but this phase of the application was withdrawn at the hearing due to admitted changes which have occurred in the manner of applying such charges.

The application also alleges that exporters who make shipments via ocean carriers who are not members of the Conference are unjustly discriminated against by the action of the railways in refusing issuance of through bills of lading with such ocean carriers. As no shipper appeared at the hearing to support this allegation by factual evidence this phase of the application will not be further considered.

Saguenay Terminals Limited, a non-conference steamship line, and affected in the same manner as the applicant, appeared at the hearing as interveners in support of the application.

Evidence on behalf of the applicant was given by Mr. J. P. Boyle, President, Shipping Limited, who stated that an agreement had been executed with the railways in 1950 whereby through bills of lading were issued by the railways for traffic moving via the applicant's ships. Such agreement continued in effect until January 28, 1954 when it was terminated by the railways upon notice given three months previously. Enquiry made of the railways as to the reasons for termination elicited the response that it was because the applicant did not belong to a conference. A previous application for membership in the conference was denied.

Mr. Boyle asserted that the action on the part of the railways resulted in preventing shippers who desired through bills of lading from forwarding their traffic via other than conference lines, thereby depriving shippers of freedom of choice of ocean service and unjustly discriminating against the applicant.

Upon cross examination Mr. Boyle stated that the applicant was not bound by conference rates; that its rates were ten per cent lower, but had not been on the lower level prior to being denied membership in the Conference; and that the reduced rates had been in effect since 1948 whereas the through bills of lading arrangement was terminated in 1954.

(*) Representations have been transmitted to the Board indicating that the application has the support of the Government of Ireland.

Mr. Gordon Moffatt, an officer of the Canadian-United Kingdom Eastbound Freight Conference was subpoenaed by the applicant and asked to produce a number of documents. On being called as a witness by Counsel for the applicant the request was then limited to the production of the form of agreement which members of the Conference require a shipper to sign where an ocean rate concession obtains, and a request for advice as to whether the Conference had requested the Railway Association prior to November 1953 to restrict through bill of lading privileges to traffic carried by Conference ships.

Objection was taken to these requests by Counsel for the Conference supported by railway Counsel. The objection was sustained on the grounds that the form of agreement executed between shippers and the steamship lines would not be indicative of difference in treatment in respect of the railways' procedure in the issuance of through bills of lading; also that whether or not the Conference had exerted pressure upon the railways would not be helpful to the Board to determine what difference in treatment existed as a result of the railways' actions.

On behalf of Saguenay Terminals Limited Mr. F. L. Parsons, General Manager and Vice-President gave evidence substantially to the effect that his company was not a member of the Conference and did not wish to be. He introduced a series of exhibits consisting of copies of correspondence between himself and the Railway Association of Canada the purport of which was to show that attempts had been made to clarify the railways' action in terminating the through bill of lading agreement.

At the outset of the hearing the railways moved for dismissal on the grounds of lack of jurisdiction. It was asserted that the railways issue through bills of lading only in cases where the railway acts as agent for the steamship line with which an agreement so to act has been effected; that the Board is without power to compel the railways to act as agents for ocean carriers; and that the railways have the right as a matter of managerial discretion to make agency agreements with such steamship lines as they may desire.

The motion for dismissal was denied, and the Board observed that as the complaint was directed to Section 319(3) of the Railway Act the applicant might be considered as an interested party entitled to seek redress on its own account of the alleged unjust discrimination.

Counsel for the applicant directed attention to the provisions of the Board's General Order No. 41, dated July 15, 1909, and in particular to that part thereof which states:

> "That the forms hereby approved shall be the only forms of bills of lading to be used by all railway companies subject to the legislative authority of the Parliament of Canada".

It was contended that the form of through bill of lading now issued by the railways differs with those so approved by the aforementioned Order, not only as to style of form but also in certain aspects respecting the responsibilities of the carriers involved. He asserted that as the form of through bill of lading had not been approved by the Board there was no authority for its use by the railways in Canada, and that such use should be discontinued.

Counsel for the railways contended that the powers conveyed to the Board by Section 353 of the present Railway Act relate only to the terms and conditions of carriage and not to the form itself; that the railway issues the bill of lading contemplated by the Order but exchanges it for a through bill of lading; and that the movement over the railway is performed under the bill of lading first issued.

It was conceded by Counsel for the applicant that railway terms and conditions of carriage were included in the through bill of lading as contained on the reverse side of the form and the only point at issue appears to be the style of the form and certain of the provisions on the face of the document.

We reserved decision upon the point so raised by Counsel, and I shall now deal with the matter.

It appears that through bills of lading, such as are here involved, have been in use for many years and it is perhaps significant that this is the first time that such use has been contested. As the point raised concerns, mainly, the style of the form it is necessary to consider the legislation governing the same.

The Railway Act which prevailed in 1909 in this respect is exactly the same as it is today. Section 353 of the present Act, by subsection 3, reads:

> "the Board may by regulation prescribe the terms and conditions under which any traffic may be carried by the Company."

It cannot be considered, in my opinion, that the form of bill of lading constitutes the "terms and conditions under which any traffic may be carried by the company". On the other hand, at the time the Board was dealing with such terms and conditions in 1909 there was no standard form of bill of lading and it seems quite obvious that the Board then stressed the use of the standard form in order that uniformity might be achieved. I therefore do not attach the importance to the paragraph of the 1909 order which Counsel now seeks to emphasize. I can find nothing in the Act which specifically entitles the Board to require only the use of a set form, whereas quite the contrary condition exists with respect to the terms and conditions of carriage which the Board prescribed. As it is admitted that these terms and conditions are included in the through bill I am unable to adopt the views expressed by Counsel and do not find that the through bill of lading is in violation of the said Order.

Counsel for the Applicant also directed attention to a tariff publishing through joint rates from interior points in Canada to destinations overseas. The tariff in question is No. 30-H, C.T.C. No. 1516 of the Canadian Freight Association.

It was pointed out that the said tariff applied only on traffic covered by through bills of lading forwarded by shippers who have signed conference agreements with certain steamship lines party to the tariff. In bringing the matter to our attention, Counsel stated it was "to show what is one of the results of the through bills of lading, that they are now filing joint tariff confined to shipments made on a conference line."

An examination of the tariff shows that it is restricted as Counsel indicated, but it is clear that the said tariff does nothing more than meet competition facing both the railway and the Conference steamship lines.

While it might be argued that, for the rail portion of the haul under this tariff, the carriage of the traffic could not be conditional upon the shipper being compelled to take out a through bill of lading or signing a conference agreement with the steamship line, nevertheless it may be that this obligation is imposed by the steamship lines as a condition precedent to the establishment of the competitive through rate. Other than this the conditions appear to be the same as those complained of herein. The existence of the tariff does not add to, or detract from, the case of the applicant.

In giving consideration to what has been presented I am impressed by the fact that the issuance of a through bill of lading is of advantage to shippers desiring the same. Mr. Boyle, in answer to a question by my colleague, Mr. Commissioner Chase, stated:

> "The advantages, as I see it, are these: Shippers away out in Western Ontario or maybe out in the Middle West go to the railway company and get a through bill of lading. As soon as that through bill of lading is signed they have got nothing more to do about their shipments. They can take their documents to the bank and get their money. If they ship on a straight bill of lading they have got to wait until that shipment gets

to the seaport, until the steamship company gives them an ocean bill of lading and so they have to get the ocean bill of lading back and so on. They are deprived of the use of their money in each case.

"Q. That is the principal disadvantage?

"A. Yes. And another condition and a very important one is that once he gets a through bill of lading he forgets all about the shipment. It is in the hands of the railway and the steamship company whereas if it goes on a straight bill of lading he is worrying about whether it is down at the seaport and whether he is going to get through bills of lading out and in fact he has more clerical work to do. We feel in cases like that a shipper might drop our service and go to one of our competitors simply because he can get additional privileges." (Transcript pp. 4279, 80).

It was asserted by Counsel for the railways that it is within the power of the steamship lines to issue its own through bill of lading which would be equally negotiable at the banks, but some considerable doubt was expressed by Counsel for the applicant and intervener that it would be a feasible practice; that the steamship lines do not and cannot maintain offices throughout Canada for that purpose; and that the steamship line could not be expected to issue a bill of lading without possession of the goods. It was further stressed by the applicants that it would be unreasonable to expect some steamship companies to perform this function while the railway furnished the service on behalf of other ocean lines.

I think there is considerable merit in the position taken in this respect by the applicant and intervener.

I am of the opinion that the railways are not required by the Railway Act to issue through bills of lading, and if this case were solely concerned with a demand for such issuance as part of their obligations under the Act, I think it would be beyond the powers of the Board to so direct.

However, when the railways do issue such documents and restrict the issuance to traffic moving via certain ocean lines, such as has been demonstrated in these proceedings, the matter becomes one for consideration as to whether the difference in treatment constitutes undue preference and prejudice which the Act forbids and charges us to remove if found to exist.

The evidence we have received shows that the applicant and intervener did enjoy the facility of through bills of lading between 1950 and early 1954; that the arrangement was cancelled by the railways and its re-establishment has been denied by such railways. The form of agreement which had been in force is attached as appendix "B" to the applicant's initial submission. An examination of this document indicates that the terms thereof were reasonable to both parties; this is borne out by the fact that the agreement was effective for a period of approximately four years.

Appendix "C" to the application consists of a copy of letter dated November 9, 1953 from the Railway Association of Canada to The Shipping Federation of Canada. Because this letter sets out explicitly the reason for the cancellation of the aforesaid agreement I include its text herein, as follows:

"Your letter November 4th, file B.4-17 enclosed a copy of communication you had received from Mr. J. P. Boyle, President of Shipping Limited, with reference to through bill of lading privileges granted Irish Shipping Ltd.

"The through bill of lading privilege has in the past only been granted to steamship lines who are members of the conferences governing, the various trades concerned, with whom the railways are in agreement. Where no conference exists, the privilege is granted only to established lines operating regular services.

"As we understand the Irish Shipping Limited are not a member of the regular conference in the trade between Canada and the United Kingdom the railways' action in deciding to discontinue issuing through bills of lading in connection with this particular line is in accordance with the principle outlined above and we further understand is in conformity with the requirements of the members of the Canadian United Kingdom Eastbound Freight Conference."

Section 319(3) of the Railway Act states, in part:

"No company shall

(*a*) make or give any undue or unreasonable preference or advantage to, or in favour of any particular person or company, or any particular description of traffic, *in any respect whatsoever;*

(*b*) by any unreasonable delay *or otherwise howsoever,* make any difference in treatment in the receiving, loading, forwarding, unloading, or delivery of the goods of a similar character in favour of or against any particular person or company;

(*c*) subject any particular person, or company, or any particular description of traffic, to any undue, or unreasonable prejudice or disadvantage, *in any respect whatsoever;*" (Italics are mine)

The evidence we heard as to the advantages flowing from the issuance of through bills of lading, as I have already stated herein, are the facilities for banking and the relief of the burden on the shipper to arrange delivery from rail to ship. These advantages are to the shipper, but directly react to the disadvantage of the applicant if through bills of lading are required by the shipper which cannot be secured when the movement takes place via the applicant's line.

It seems quite clear that the railways have issued, and continue to issue, through bills of lading in connection with conference members and refuse like privileges to con-conference ocean lines.

By Section 33 of the Railway Act we are given "full jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested,". I consider the applicant and the intervener are interested parties and have shown their right to complain that the railways have failed to observe the provisions of Section 319, *supra.* In *"Inland Steamship Corporation* v. *C.N.R. & C.P.R."* 52 C.R.T.C. 293, at page 310, the Board dealt with the status of a steamship line to make complaint, and there stated:

"The railways submit that, as the complainant does not claim to be a shipper or consignee it, therefore, has no status to make the complaint in question. By s. 33 of the Railway Act, complaints are to be made 'by or on behalf of any party interested.' In dealing with a similar provision, the late Honourable A. C. Killam, the then Chief Commissioner, in Duthie v. G.T.R., 4 C.R.C. 304 at p. 327, stated:

'I would not deal with this requirement in any narrow or technical view. Parties might be interested in the questions of rates to be charged upon certain kinds of traffic and of charges for demurrage or car services, without being directly interested in particular transactions giving rise to a complaint—even, perhaps, without being engaged in that kind of traffis.'

"While there is considerable to be said in favour of the contention of the railways, I with much respect agree with the broader view taken by the Hon. Mr. Killam in Duthie v. G.T.R., supra. In my opinion the complainant in this case is an 'interested' party, and I have so dealt with the matter."

The railways have not, in this case, challenged the right of the applicant to complain, but I have satisfied myself that it does have that right, in which opinion I am fortified by the citation above stated.

Section 319, *supra,* specifically forbids undue preference in favour of, or undue prejudice against any particular person or company "in any respect whatsoever". It also forbids the making of any difference in treatment in the carriage of goods. The question for us to determine is whether the difference in treatment in the issuance of through bills of lading as herein involved constitutes undue preference and prejudice in respect of the applicant and intervener.

The evidence is, as I have already stated, that the applicants did enjoy through bill of lading privileges and have sought their continuance but have been deprived thereof, and continue to be denied them on grounds which do not, to me, establish reasonable justification therefor insofar as the railways are concerned.

By making the privilege contingent upon membership in a steamship conference in the manner outlined in the Railway Association's letter, *supra,* it is not established to my satisfaction that they constitute legitimate grounds for not extending the same or similar privileges to all steamship lines willing and able to execute the same or similar arrangements with the railways. It will be noted that the concluding portion of the Railway Association's explanatory letter couples with the reasons stated, the observation that the decision "is in conformiy with the requirements of the members of the Canadian-United Kingdom Eastbound Freight Conference." I do not fully apprehend the meaning of the phrase but if it is intended to mean that the Conference exerted pressure on the railways I have already dealt with that phase of the matter, and do not make any finding here respecting the same.

The cancellation of the agreement and subsequent denial of its re-establishment, while carrying on such arrangements with other steamship lines constitutes, in my opinion, undue prejudice against the applicant and intervener.

I am impelled to say, however, that there can be no such finding against the railway if any ocean carrier does not elect to enter into an agreement for issuance of the through bills of lading. Under such conditions the railways would be powerless to issue such documents.

To sum up, I find that when the railways issue through bills of lading in connection with certain steamship lines and deny similar arrangements in connection with certain other steamship lines who are willing and able to participate in the issuance of such bills of lading, a condition of undue preference and advantage exists in favour of the first mentioned steamship lines; and a condition of undue prejudice and disadvantage exists in respect of the second mentioned steamship line.

An Order will issue pursuant to this Judgment requiring that such undue preference, advantage, prejudice and disadvantage be removed forthwith.

HUGH WARDROPE.

OTTAWA, August 31, 1954.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 84457

In the matter of the application of Irish Shipping Limited re issuance of through Bills of Lading by railway companies for export traffic:

File No. 3678·34·1

TUESDAY, the 31st day of August, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting of the Board held at Ottawa, Ontario, June 28, 1954, in the presence of Counsel for Irish Shipping Limited, Saguenay Terminals Limited, the Railway Association of Canada, Canadian National Railways, the Canadian Pacific Railway Company and Canadian-United Kingdom Eastbound Freight Conference—

It is ordered that the Canadian Pacific Railway Company, Canadian National Railways and other members of the Railway Association of Canada be, and they are hereby required to remove forthwith the undue preference, advantage, prejudice and disadvantage which the Judgment herein dated August 31, 1954, required to be removed.

HUGH WARDROPE,

Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORAL JUDGMENT

(1) *In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge, dated March 30, 1954, between the carriers named therein and The Steel Company of Canada, Limited. (File No. 40994·56)*

(2) *In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge, dated April 28, 1954, between the carriers named therein and Algoma Steel Corporation, Limited. (File No. 40994·58)*

(3) *In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge, dated March 30, 1954, between the carriers named therein and Dominion Foundries and Steel, Limited and the Steel Company of Canada, Limited. (File No. 40994·55)*

(4) *In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge, dated June 24, 1954, between the carriers named therein and The Canadian Drawn Steel Company Limited and Union Drawn Steel Company Limited. (File No. 40994·62)*

WARDROPE, Assistant Chief Commissioner:

Since the adjournment yesterday of the sittings respecting the four iron and steel agreed charges, I have conferred with my colleagues and our decision has been reached.

The applications which are pending have been made within, and in compliance with all of the pertinent provisions of the Transport Act and our regulations thereunder. The sittings just concluded were in pursuance of notices of objection by certain shippers and the Province of Alberta. During the course of the hearing we were compelled to rule upon the status of the said Province and its right to be heard in objection to approval of the proposed agreed charges. To complete the record herein our ruling was as follows:

> "The Railways object to the Province of Alberta appearing before the Board in the cases before us on the grounds that the Province does not fall within any of the three categories contained in Section 32(7) defining those who are entitled to be heard in opposition to an application for approval of an Agreed Charge. A Ruling on this point has been asked of the Board.
>
> Upon what we have heard today the Board's opinion is that the Province of Alberta is entitled to be heard under the provisions of Section 32(7)(*a*) as a Shipper who considers his business will be unjustly discriminated against, if the Agreed Charges are approved. The merits or relevancy of such objections as may be made are then something for further consideration by the Board".

Other than by representation through Counsel, these objecting shippers did not appear or give evidence to show that their business will be unjustly discriminated against by the coming into force of the proposed agreements. The representations collaterally made by their Counsel consisted of argument directed mainly to the non-application of the so-called "One-third rule" to the agreed charges. The argument in this respect appears to be mainly repetition of representations made in the Cast Iron Pipe case, 71 C.R.T.C. 28.

As there has been no change in the governing legislation since that case was decided and the principles involved are the same, our view is that there is nothing adduced here which would cause us to alter our findings; therefore we adopt them as our decision herein.

In argument, Counsel for objecting shippers referred to the possibility of steel moving under the proposed agreed charges to the Pacific Coast, being converted or fabricated into storage tanks and other articles and shipped into Alberta in competition with fabricators in Alberta. He stresses that this would create unjust discrimination against the Alberta industry.

In this respect we heard evidence of each shipper signatory to the proposed agreements that the proposed rates would only afford partial assistance to the eastern steel producers in the meeting of foreign competition; that the eastern industries would be compelled to make further price reductions to meet such competition; and also that if the agreed charge rates were not granted they would be forced to withdraw from the Coast market.

It seems quite clear that the fabricators of storage tanks at Vancouver are in a favourable geographical position to secure their raw material from either foreign sources or the eastern suppliers. Being in this position makes it clear that the Alberta industry will not be prejudiced by the making of these agreed charges or that any unjust discrimination against it will flow therefrom. The eastern industry is not gaining any preference in the Coast market but is merely being placed in a more favourable competitive position.

Other objections raised by Counsel for Alberta were directed to the matters of whether the object could be secured by competitive tariff; whether the proposed rates are compensatory; and the effect upon the net revenue of the carriers.

While we, by no means, reject any assistance which may be given to us in the determination of these questions, we do consider they are functions placed upon us by the Statute and which we must discharge with the greatest care. It is the normal practice of the Board's staff to immediately institute all necessary studies of each agreed charge when submitted and within, if possible, the period of thirty days from the publication of notice in the *Canada Gazette*. Our staff is composed of persons with experience in these matters extending over a period of many years; they are placed at our disposal by Statute to advise us on such matters, but we are quite free to accept or reject any advice they may give.

The advice we have received collectively in these cases is to the effect that the object cannot be attained by a competitive tariff because of the necessity to assure the carriage of the shippers' traffic where direct competition exists for the carriage of the same, and to the incidence of the one-third rule where it would cause a severe drain upon the carriers' revenues; that the proposed rates will yield more than out-of-pocket costs and therefore provide some revenue towards fixed charges; and that the net revenue of the carriers will be enhanced by the simple fact that little if any traffic is now being carried due to the foreign competition.

Having heard all parties and upon full consideration of all that has been placed before us, we find that the agreed charges as proposed should be approved as of the effective dates proposed therein. Orders will issue to that effect and will include the fixing of charges for certain shippers who have made application therefor to the extent set out in such Orders.

HUGH WARDROPE.

October 1, 1954.

Concurred in by the Deputy Chief Commissioner, Mr. ARMAND SYLVESTRE, Q.C., and Commissioner, Mr. FRANK M. MACPHERSON.

ORDER No. 84658

In the matter of the application of the Canadian Freight Association dated March 31, 1954, under the provisions of the Transport Act for approval of an Agreed Charge:

In the matter of the applications of The Pedlar People Limited, Burlington Steel Company Limited, Canadian Tube & Steel Products Limited and Rosco Metal & Roofing Products Ltd. for a charge to be fixed the same as the said Agreed Charge;

In the matter of the application of Atlas Steels Limited for a charge to be fixed the same as the said Agreed Charge on Iron and Steel Bars as specified therein;

And in the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to the said Agreed Charge:

File No. 40994·55

MONDAY, the 4th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on September 30, 1954, in the presence of Counsel for and representatives of the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, the Province of Alberta, C. W. Carry Ltd., Northwest Industries Limited, The Steel Company of Canada, Limited, Dominion Foundries and Steel Limited, The Pedlar People Limited and Atlas Steels Limited—

It is ordered

1. That the Agreed Charge on file with the Board under file No. 40994·55 and attached to the said application of the Canadian Freight Association, between the parties described in paragraph A thereof, applying on Iron or Steel Bars, Plate and Sheet as described in paragraph B thereof from Hamilton, Ontario, to New Westminster, Vancouver and Victoria, B.C., be, and it is hereby approved; and the Board hereby fixes April 1, 1954, as the date from which the said Agreed Charge shall be deemed to have become operative.

2. That a charge be, and it is hereby fixed for the transport by the railway companies parties to the said agreed charge of the same goods to the same destinations as above stated, for The Pedlar People Limited, Burlington Steel Company Limited, Canadian Tube & Steel Products Limited and Rosco Metal & Roofing Products Ltd. to be applicable from the points of origin specified below, subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby fixes the dates upon which the said fixed charge shall become operative as follows:

The Pedlar People Limited, from Oshawa, Ont.—April 7, 1954.

Burlington Steel Company Limited, from Hamilton, Ont.—April 14, 1954.

Canadian Tube & Steel Products Limited, from Montreal, Que.—June 23, 1954.

Rosco Metal & Roofing Products Ltd., from Toronto, Ont.—August 12, 1954.

3. That a charge be, and it is hereby fixed for the transport by the said railway companies of Iron or Steel Bars as described in paragraph B of the said agreed charge to the same destinations as above stated, for Atlas Steels Limited to be applicable from Welland, Ont., subject to and upon the same terms and conditions contained in the said agreed charge, and the Board hereby fixes the 10th day of May, 1954, as the date on which the charge hereby fixed becomes operative.

4. That Supplement No. 1 to the aforesaid agreed charge, on file with the Board under file No. 40994·55, be, and it is hereby approved, and the Board hereby fixes September 1, 1954, as the date from which the said agreed charge shall be deemed to have become operative.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84659

In the matter of the application of the Canadian Freight Association dated March 31, 1954, under the provisions of the Transport Act for approval of an Agreed Charge:

File No. 40994·56

MONDAY, the 4th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on September 30, 1954, in the presence of Counsel for and representatives of the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, the Province of Alberta, C. W. Carry Ltd., Northwest Industries Limited and The Steel Company of Canada, Limited—

It is ordered that the agreed charge on file with the Board under file No. 40994·56 and attached to the said application, between the parties described in paragraph A thereof, applying on Iron or Steel Wire Rods from Hamilton, Ont., to New Westminster, Vancouver and Victoria, B.C., be, and it is hereby approved; and the Board hereby fixes April 1, 1954, as the date from which the said agreed charge shall be deemed to have become operative.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84660

In the matter of the application of the Canadian Freight Association dated April 28, 1954, under the provisions of the Transport Act for approval of an Agreed Charge:

File No. 40994·58

MONDAY, the 4th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on September 30, 1954, in the presence of Counsel for and representatives of the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, the Province of Alberta, C. W. Carry Ltd., and Algoma Steel Corporation, Limited—

It is ordered that the agreed charge on file with the Board under file No. 40994·58 and attached to the said application, between the parties described in paragraph A thereof, applying on Iron or Steel Bars, Plate and Sheet as described in paragraph B thereof, from Sault Ste. Marie, Ontario, to New Westminster, Vancouver and Victoria, B.C., be, and it is hereby approved and the Board hereby fixes April 29, 1954, as the date from which the said agreed charge shall be deemed to have become operative.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84661

In the matter of the application of The Canadian Freight Association dated June 24, 1954, under the provisions of the Transport Act for approval of an Agreed Charge:

File No. 40994·62

MONDAY, the 4th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board held at Ottawa, Ontario, on September 30, 1954, in the presence of Counsel for and representatives of the Canadian Freight Association, Canadian National Railways, Canadian Pacfic Railway Company, the Province of Alberta, C. W. Carry Ltd., Northwest Industries Limited, The Canadian Drawn Steel Co. Limited and Union Drawn Steel Company Limited—

It is ordered that the agreed charge on file with the Board under file No. 40994·62 and attached to the said application between the parties described in paragraph A thereof, applying on Cold rolled or drawn iron or steel bars from Hamilton, Ont., to Vancouver, B.C., be, and it is hereby approved and the Board hereby fixes June 25, 1954, as the date from which the said agreed charge shall be deemed to have become operative.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, AUGUST, 1954

Railway Accidents	223	Killed	13	Injured	304
Level Crossing Accidents.....	29	Killed	10	Injured	33
Total	252		23		337

	Killed	*Injured*
Passengers	—	116
Employees	3	176
Others	20	45
Total	23	337

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Quebec

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 306-228.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 178-270.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 192-567.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 185-628.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.J. BO-66-R.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 78-408.

Ontario

1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck ran into side of train. Licence: Ont. 93-200-C.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. GB-280.
—	1	Cement Mixer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 12375-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-4973.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AS-93.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Minn. 178-999.
—	1	Automobile ran into side of train. Licence: Ont. J-9159.
—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Ont. 33632.
—	1	Automobile ran into front of train. Licence: Ont. 28-T-68.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 77-T-45.

Manitoba

—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 2-R-627.
—	4	Automobile struck by track motor car. Licence: Man. 2-N-742.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 5-H-356.

SASKATCHEWAN

—	1	Road Maintainer drove onto crossing in front of approaching train and was struck.
4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 155-165.
—	1	Automobile ran into side of train. Licence: Sask. 123-771.

ALBERTA

—	1	Automobile ran into side of train. Licence: Alta. GY-170.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	3	Auto truck ran into track motor car. Licence not given.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-159867.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-30437.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. 70-109.

Of the 29 accidents at Highway crossings, 21 occurred at unprotected crossings, and 8 at protected crossings. Eighteen occurred after sunrise and eleven after sunset.

OTTAWA, Ontario, October 1, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84560 Sept. 17—In the matter of the application of the County of Welland, Ontario, for an Order authorizing it to widen West Side Road where it crosses the Niagara, St. Catharines & Toronto Railway at mileage 17·35, Welland Subdivision, Township of Crowland, Ontario.

84561 Sept. 17—Permitting the removal of slow order at C.N.R. crossing east of the station at St. Vincent de Paul, Quebec.

84562 Sept. 17—Authorizing the British Columbia Department of Public Works to construct an overhead bridge over the C.P.R. at mileage 8·8 Shuswap Subdivision, British Columbia.

84563 Sept. 17—Authorizing the C.N.R. to operate the bridge over the Wood River, Saskatchewan.

84564 Sept. 17—In the matter of the application of The Toronto, Hamilton & Buffalo Railway Co., for authority to discontinue trains Nos. 144 and 145 over the Waterford Subdivision between Hamilton and Brantford, Ontario.

84565 Sept. 20—Authorizing the C.N.R. to lengthen the track circuits for the automatic protection at the crossing of Adelaide Street, mileage 4·79 Longwood Subdivision, Mount Brydges, Ontario.

84566 Sept. 20—Permitting the removal of slow order at C.N.R. crossing of Norfolk Street, Simcoe, Ontario.

84567 Sept. 20—Relieving the C.N.R. from erecting fencing along the north boundary of their station grounds at Mantario, Saskatchewan.

84568 Sept. 20—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of loading racks and connecting pipe lines at Woodstock, New Brunswick.

84569 Sept. 20—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., Chauvin, Alberta.

84570 Sept. 20—In the matter of the application of the City of St. Thomas, Ontario, for installation of automatic protection at the crossing of Manitoba Street and the C.N.R.

84571 Sept. 20—Authorizing the Town of Preston to construct a public crossing across the C.N.R. right-of-way at Bishop Street, Preston, Ontario.

84572 Sept. 20—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84573 Sept. 20—Relieving the C.P.R. from erecting and maintaining cattle guards at certain crossings on its Arrow Lake Subdivision, British Columbia.

84574 Sept. 20—Authorizing the New Brunswick Department of Public Works to divert the highway where it crosses the C.N.R. right-of-way east of Campbellton, New Brunswick.

84575 Sept. 21—Authorizing the C.N.R. to construct a siding to serve the McColl-Frontenac Oil Co. Limited, across Old King's Highway No. 2, Township of Edwardsburg, Ontario.

84576 Sept. 21—Approving location of C.P.R. station proposed to be erected at Hays, Alberta.

84577 Sept. 21—Authorizing the C.N.R. to make certain changes in connection with the automatic protection installed at the crossing of Highway No. 8, Niagara Falls, Ontario.

84578 Sept. 21—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the Dominion Atlantic Railway Company under section 8.

84579 Sept. 21—Approving supplement and appendix "A" to Traffic Agreement between The Bell Telephone Co. of Canada and La Compagnie de Téléphone de Stanfold.

84580 Sept. 22—Permitting the removal of slow order at C.N.R. crossing of St. Joseph Street west of the station at Drummondville, Quebec.

84581 Sept. 22—Approving the plan showing protection at the crossing of the Chesapeake and Ohio Railway Company and the private crossing of the Chrysler Corporation of Canada Limited at Windsor, Ontario.

84582 Sept. 22—In the matter of tariffs filed under the provisions of the Maritime Freight Rates Act and Orders Nos. 82719 and 83959 approving tolls published in tariff filed by the Dominion Atlantic Railway Company.

84583 Sept. 22—In the matter of the application of the Canadian Freight Association and the Department of National Defence Army for approval of special form of bill of lading for use by the Government of Canada.

84584 Sept. 22—In the matter of approval of plan submitted to the C.P.R. by Imperail Oil Limited showing proposed location of storage tanks, etc., at Piapot, Saskatchewan.

84585 Sept. 22—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Kenton, Manitoba.

84586 Sept. 22—In the matter of the application of the City of Saskatoon, Saskatchewan, for authority to widen 33rd Street where it crosses the C.N.R. right-of-way in the City of Saskatoon, Saskatchewan.

84587 Sept. 22—In the matter of the application of the British Columbia Electric Company Limited for an Order authorizing the construction of a spawning channel in Jones Creek across the right-of-way of the Trans Mountain Oil Pipe Line Company in the north half of the S.W. $\frac{1}{4}$ of Section 19-4-27 W6M, British Columbia.

84588 Sept. 22—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) 69.

84589 Sept. 23—Approving operation of the C.P.R. trains over the private siding serving Hinde and Dauch Paper Co. of Canada Limited, Township of Etobicoke, Ontario.

84590 Sept. 23—Authorizing the C.N.R. to construct a private siding across a public road east of St. Boniface, to serve Alex Dansereau & Company Limited.

84591 Sept. 23—Relieving the C.N.R. from erecting and maintaining fencing between certain mileages on their Miami Subdivision, Mantoba.

84592 Sept. 23—In the matter of the application of the C.N.R. for approval of plan showing protection as installed at the crossing of Bridge Street, Hastings, Ontario.

84593 Sept. 23—In the matter of the application of the New Brunswick Department of Public Works for an Order authorizing it to relocate and change the alignment of the highway where it crosses the C.N.R. at mileage 104·25, Bathurst Subdivision, New Brunswick.

84594 Sept. 23—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Newdale, Manitoba.

84595 Sept. 23—In the matter of approval of plan submitted to the C.N.R. by the British American Oil Company Limited showing proposed location of storage tanks, etc., at Prince Albert, Saskatchewan.

84596 Sept. 23—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under section 8.

84597 Sept. 23—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under section 8.

84598 Sept. 23—In the matter of tariffs filed under the provisions of the Maritime Freight Rates Act and Order No. 84331 approving tolls published in tariffs filed by the C.F.A.

84599 Sept. 23—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.F.A. under sections 3 and 8.

84600 Sept. 23—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Breton, Alberta.

84601 Sept. 23—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Edberg, Alberta.

84602 Sept. 23—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed location of storage tanks, etc., at Red Lake Road, Ontario.

84603 Sept. 23—In the matter of the application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Hargrave Station, Manitoba.

84604 Sept. 23—In the matter of the application of the Northern Alberta Railway Company for an Order extending the time within which it was exempted by Order No. 73388 amended by Order No. 82509 from complying with certain requirements of Clause 423 of the Board's Regulations approved by General Order No. 722.

84605 Sept. 23—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., at Newcastle, N.B.

84606 Sept. 24—In the matter of the application of the Town of Port Colborne, Ontario, for installation of automatic protection at the crossing of Steele Street and the C.N.R., Port Colborne, Ontario.

84607 Sept. 24—In the matter of the application of the Township of Seneca, Ontario, for an Order amending Order No. 82462, which authorized it to make improvements in the approach grade at the crossing of the highway and the C.N.R. being the second crossing east of Caledonia, Ontario.

84608 Sept. 24—In the matter of installation of automatic protection at the crossing of Commercial Street and the Dominion Atlantic Railway being the first crossing east of the station in the Town of Berwick, Nova Scotia.

84609 Sept. 24—In the matter of the accident at the C.P.R. crossing of Pineridge Road, Bala, Ontario.

84610 Sept. 24—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Lintlaw, Saskatchewan.

84611 Sept. 24—In the matter of application of the C.N.R. for an Order extending the time limit within which they were authorized under Orders Nos. 80514, 82298 and 83371 to take possession of facilities of National Harbours Board and the Great Northern Railway Company, etc.

84612 Sept. 24—Permitting the removal of slow order at C.N.R. crossing of Highway No. 3 at mileage 129·75, Yarmouth Subdivision, Nova Scotia.

84613 Sept. 24—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Mantario, Saskatchewan.

84614 Sept. 24—Authorizing the Municipal District of Kneehill No. 48, Alberta, to relocate the highway where it crosses the C.P.R. right-of-way at mileage 50·5, Langdon Subdivision, Alberta.

84615 Sept. 27—Amending Order No. 84561 in the matter of the accident at C.P.R. crossing east of the station at St. Vincent de Paul, Quebec.

84616 Sept. 27—In the matter of application of the C.P.R. for approval of plan showing details of corrugated structural plate cattle pass to be used by the C.P.R.

84617 Sept. 27—Authorizing the Imperialle Fuels Limited to construct a pipe line for the installation of fuel oil along the right-of-way of the London and Port Stanley Railways, in the Town of Port Stanley, Ontario.

84618 Sept. 27—In the matter of the application of The Bell Telephone Company of Canada for approval of Supplement No. 1 to Service Station Contract between the Bell Telephone Company of Canada and the Renfrew and Shamrock Telephone Association Limited.

84619 Sept. 27—Authorizing the C.N.R. to construct a spur to serve Pilkington Brothers (Canada) Limited in Block XI, Hudson's Bay Reserve along and across the lane between 111th and 112th Streets, City of Edmonton, Alberta.

84620 Sept. 27—In the matter of the application of the Alberta Department of Highways for an Order authorizing the construction of highway across the C.N.R. right-of-way by means of an overhead bridge at mileage 35·20, Brule Subdivision.

84621 Sept. 27—In the matter of approval of plan submitted to the New York Central Railroad Company by Sterling Fuels showing proposed location of storage tanks, etc., at Fort Erie, Ontario.

84622 Sept. 27—In the matter of approval of plan submitted to the New York Central Railroad Company by Sterling Fuels showing proposed location of storage tanks, etc., at Windsor, Ontario.

84623 Sept. 27—In the matter of approval of plan submitted to the C.N.R. by Campion Pipe Line Services Limited showing proposed location of pipe lines, etc., at Wildwood, Alberta.

84624 Sept. 27—Dismissing the application of the C.N.R. for an Order authorizing them to discontinue as an agency their station at Makinak, Manitoba.

84625 Sept. 27—In the matter of the application of the Toronto, Hamilton and Buffalo Railway Company for authority to discontinue operation of trains Nos. 144 and 145 over the Waterford Subdivision between Hamilton, Brantford and Waterford, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 84820

In the matter of the application of the Canadian Freight Association under the provisions of Part V of The Transport Act for approval of an Agreed Charge dated February 26, 1954:

File No. 40990·54

FRIDAY, the 22nd day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections having been filed—

It is ordered that the Agreed Charge dated February 26, 1954, between the railways mentioned therein and Prince Edward Island Potato Marketing Board, as amended by the parties thereto by the deletion of Lachute, P.Q., as a point of destination, Route No. 5 in paragraphs D and E and Canadian Pacific Railway Company wherever mentioned therein, on potatoes as specified therein, applicable from all railway stations and/or places in Prince Edward Island as specified therein to railway stations and/or places in the provinces of Ontario and Quebec specified in paragraph D, on file with the Board under file No. 40994·54, be, and it is hereby, approved; and that the date as from which the said Agreed Charge shall be deemed to have become operative is hereby fixed as the 1st day of March, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

95115—1

ORDER No. 84821

In the matter of the application of Panther Oil & Grease Mfg. Co. of Canada Limited, dated October 7, 1954, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 11 as approved by the Board:

File No. 40994·3

MONDAY, the 25th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Panther Oil & Grease Mfg. Co. of Canada Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products carloads, in tank cars from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 11, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 11 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said Agreed Charge, shipped by Panther Oil & Grease Mfg. Co. of Canada Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84839

In the matter of the application of Sun-Joy Foods Limited, of Picton, Ontario, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 27th day of October, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Sun-Joy Foods Limited has made application under subsection 8 of section 32 of The Transport Act and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of canned goods as described in paragraph B of the said tariff, shipped by Sun-Joy Foods Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84626 Sept. 28—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of the C.N.R. and C.P.R. at Norcran, Manitoba.

84627 Sept. 28—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking of the C.N.R. and C.P.R. near Regina, Saskatchewan.

84628 Sept. 28—Authorizing the C.P.R. to operate the bridge at mileage 21·7 Coquihalla Subdivision, British Columbia.

84629 Sept. 28—Authorizing the Vancouver & Lulu Island Railway Company to operate under the overhead bridge across 4th Avenue, Vancouver, British Columbia.

84630 Sept. 28—Authorizing the Vancouver & Lulu Island Railway Company to operate under the overhead bridge south of False Creek, Vancouver, British Columbia.

84631 Sept. 28—Authorizing the C.P.R. to operate its trains under the overhead bridge north of False Creek, Vancouver, British Columbia.

84632 Sept. 28—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84633 Sept. 28—In the matter of approval of plan submitted to the C.N.R. by York Gears Limited, showing the proposed location of storage tanks, etc., at Fairbank, Ontario.

84634 Sept. 28—Permitting the removal of slow order at C.P.R. crossing at Plum Coulee, Manitoba.

84635 Sept. 29—In the matter of the application of the C.N.R. for authority to remove the station agent at Roseisle, Manitoba.

84636 Sept. 29—Authorizing the C.N.R. to use the bridge at mileage 109·3 Ashcroft Subdivision, British Columbia.

84637 Sept. 29—Authorizing the Western Pipe Lines to construct a pipe line in the Township of Nelson, County of Halton, Ontario.

84638 Sept. 29—Authorizing the Western Pipe Lines to construct a pipe line in the Township of Trafalgar, County of Halton, Ontario.

84639 Sept. 30—Permitting the removal of slow order at C.N.R. crossing and Route Marie-Victorin No. 3, near La Baie, Quebec.

84640 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Summit, Quebec.

84641 Sept. 30—Dismissing the application of the C.N.R. for authority to remove the station agent at Laura, Saskatchewan.

84642 Oct. 1—Authorizing the C.N.R. to reconstruct the bridge over Irvine River, Ontario.

84643 Oct. 1—Permitting the removal of slow order at C.N.R. crossing of Elgin Street, being the first crossing south of the station at Port Elgin, Ontario.

84644 Oct. 1—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84645 Oct. 1—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 90, south of the station at Essa, Ontario.

84646 Oct. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of pumping facilities, etc., at New Glasgow, Nova Scotia.

84647 Oct. 1—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 2, east of Belleville, Ontario.

84648 Oct. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Elphinstone, Manitoba.

84649 Oct. 1—In the matter of the application of the City of London, Ontario, for the installation of improved lighting on the gates at the crossing of Colborne Street and the C.N.R., London, Ontario.

94650 Oct. 1—In the matter of the application of the City of Calgary, Alta., for an Order authorizing it to lower the level of the roadway and sidewalks in the subway under the railway of the C.P.R. at 8th Street, Calgary, Alberta.

84651 Oct. 1—Approving the operation of the C.P.R. trains over the private siding serving Erven & Fraser Limited, in the Rural Municipality of East St. Paul, Manitoba.

84652 Oct. 1—In the matter of approval of plan submitted to the C.P.R. by Bottled Gas Limited, showing the proposed location of pipe lines, etc., at Parksville, British Columbia.

84653 Oct. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Rhein, Saskatchewan.

84654 Oct. 1—In the matter of approval of plan submitted to the C.N.R. by Trinidad Leaseholds (Canada) Limited, showing the proposed location of storage tanks, etc., at Port Credit, Ontario.

84655 Oct. 1—In the matter of approval of plan submitted to the New York Central Railroad Company, by the Maple Leaf Coal and Supply Company, showing the proposed location of storage tank, etc., near Welland, Ontario.

84656 Oct. 1—In the matter of the application of the City of London, Ontario, for improvement in the protection at the crossing of the C.N.R. and Ridout Street, London, Ontario.

84657 Oct. 1—In the matter of the application of the City of London, Ontario, for the installation of improved lighting on the gates at the crossing of Burwell Street and the C.N.R. in the City of London, Ontario.

84658 Oct. 4—In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge. In the matter of the applications of The Pedlar People Limited, Burlington Steel Company Limited, Canadian Tube & Steel Products Limited and Rosco Metal & Roofing Products Ltd. for a charge to be fixed the same as the said Agreed Charge. In the matter of the application of Atlas Steels Limited for a charge to be fixed the same as the said Agreed Charge on Iron and Steel Bars as specified therein. And in the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to the said Agreed Charge.

84659 Oct. 4—In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge with respect to iron or steel wire rods.

84660 Oct. 4—In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge with respect to iron or steel bars, plate and sheet.

84661 Oct. 4—In the matter of the application of The Canadian Freight Association for approval of an Agreed Charge with respect to cold rolled or drawn iron or steel bars.

84662 Oct. 4—In the matter of the application of the Municipality of Stanley, Manitoba, for an Order authorizing the construction of the highway across the C.P.R., west of Morden Station, Manitoba.

84663 Oct. 4—Permitting the removal of slow order at C.P.R. crossing of North Queen Street, east of Dixie, Ontario.

84664 Oct. 4—In the matter of approval of plan submitted by the C.N.R., on behalf of Sooner Petroleums Limited, showing facilities for the loading of crude oil at Innes, Saskatchewan.

84665 Oct. 5—In the matter of the application of the Alberta Department of Highways for an Order authorizing the construction of the highway across the C.N.R. by means of an overhead bridge, at mileage 33·4 Viking Subdivision, Alberta, etc.

84666 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tanks, etc., at Piney, Manitoba.

84667 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Kelowna, British Columbia.

84668 Oct. 5—In the matter of the application of the C.P.R. for an Order authorizing it to remove the station building and platform at Ostrander, Ontario.

84669 Oct. 5—In the matter of the application of the Ontario Department of Highways for an Order authorizing the construction of Highway No. 69 across the C.N.R. in the Township of Secord, Ontario.

84670 Oct. 5—In the matter of approval of plans submitted by the Northern Alberta Railways Company, on behalf of Gibson Petroleum Company Limited, showing facilities for the loading of crude oil at Kenzie, Alberta.

84671 Oct. 5—Permitting the removal of slow order at C.P.R. crossing west of Mountain Grove, Ontario.

84672 Oct. 5—In the matter of approval of Supplement to Traffic Agreement between The Bell Telephone Company and the East Luther Telephone System.

84673 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at LaSarre, Quebec.

84674 Oct. 5—In the matter of tariffs filed under the provisions of the Maritime Freight Rates Act and Order of the Board No. 84331 dated August 6, 1954.

84675 Oct. 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

84676 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tanks, etc., at Winnipegosis, Manitoba.

84677 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Ste. Rose, Manitoba.

84678 Oct. 5—In the matter of the application of the C.N.R. for an Order authorizing the operation of the bridge at mileage 9·5 Cornwall Subdivision, Dorval, Quebec.

84679 Oct. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Erickson, Manitoba.

84680 Oct. 5—Permitting the removal of slow order at C.P.R. crossing of Highway No. 55, being the first public crossing east of the station at Akenside, Alberta.

84681 Oct. 5—In the matter of the application of the C.N.R. for an Order extending the time within which it was required by Order No. 83172, to install protection at crossing of La Savane Road, City of Quebec, Quebec.

84682 Oct. 6—In the matter of the application of the C.N.R. for an Order amending Order No. 84522, dated September 13, 1954, which authorized the exemption from erecting and maintaining fencing between certain mileages on their Meskanaw Subdivision, Saskatchewan.

84683 Oct. 6—Authorizing the C.N.R. to discontinue the shelter at Delorey, Nova Scotia.

84684 Oct. 6—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., at Bonaventure Terminal, Montreal, Quebec.

84685 Oct. 6—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Inglis, Manitoba.

84686 Oct. 6—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Ltd., showing the proposed location of storage tanks, etc., at Plum Coulee, Manitoba.

84687 Oct. 6—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Chatsworth Rural Telephone Company Limited.

84688 Oct. 6—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Weedon.

84689 Oct. 6—In the matter of approval of plan submitted to the C.N.R. by Paulin and Friolet Construction Company Limited, showing the proposed location of storage tanks, etc., at Caraquet, New Brunswick.

84690 Oct. 6—Permitting the removal of slow order at C.P.R. crossing of Givens Street, Woodstock, Ontario.

84691 Oct. 6—Permitting the removal of slow order at Northern Alberta Railways Company crossing of Provincial Highway No. 2, at mileage 15·7 Grande Prairie Subdivision, Alberta.

84692 Oct. 7—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 33, south of the station at Consecon, Ontario.

84693 Oct. 7—In the matter of the application of the Quebec Department of Roads for an Order authorizing the construct of Highway No. 3 across the Canadian Arsenals' (C.N.R.) siding, at mileage 51·08 Alexandria Subdivision, Quebec.

84694 Oct. 7—In the matter of the application of the Municipality of Metropolitan Toronto for an Order authorizing the construction of Eglinton Avenue East across the C.N.R. by means of an overhead bridge in the Township of North York, Ontario.

84695 Oct. 7—Permitting the removal of slow order at C.N.R. crossing west of the station at St. Joseph, Quebec.

84696 Oct. 7—Authorizing the C.N.R. to make certain changes in the automatic protection at Parkdale Avenue crossing, Township of Saltfleet, Ont.

84697 Oct. 8—Permitting the removal of slow order at C.P.R. crossing and Lorne Avenue west of station at Port Hammond, British Columbia.

84698 Oct. 8—Authorizing the C.P.R. to construct a branch line of railway across Salsbury Drive, Vancouver, B.C., to serve Hardwood Milling Company Limited.

84699 Oct. 8—Permitting the removal of slow order at Arthur Street and C.P.R. crossing at mileage 7·28, Kaministiquia Subdivision, Ontario.

84700 Oct. 8—Authorizing the Town of Montreal South, Quebec, to construct Joliette Street across the C.N.R., Town of Montreal South, Quebec.

84701 Oct. 8—In the matter of the application of the Pembina Pipe Line Company Limited for leave to construct a pipe line under the right-of-way of the Interprovincial Pipe Line Company in the Northwest quarter of Section 32, Twp. 52, Rge. 23, W4M, Alberta.

84702 Oct. 8—In the matter of the application of the C.P.R. for approval of restricted clearances at the private siding of Hussmann Refrigerator Co. Limited, across proposed Park Drive and Webster Street, Brantford, Ontario.

84703 Oct. 8—Permitting the removal of slow order at crossing of Montreal and Southern Counties Railway Company and Cowie Street east of the station at Granby West, Quebec.

84704 Oct. 8—In the matter of the application of the C.P.R. for an extension of time within which it was required by Order No. 83525, dated April 13, 1954, to install automatic protection at the crossing of Third Street, west of Crumlin, Ontario.

84705 Oct. 8—Authorizing the C.P.R. to construct an underpass under its track at mileage 62·87, Heron Bay Subdivision to serve Marathon Paper Mills of Canada Limited.

84706 Oct. 8—In the matter of the application of the Municipal District of Strathcona No. 83, Alberta, for leave to construct a water line across the right-of-way of the Interprovincial Pipe Line Company in the northeast quarter of Sec. 31, Twp. 52, Rge. 23, W4M, Alberta.

84707 Oct. 8—In the matter of the application of the Municipal District of Strathcona No. 83, Alberta, for leave to construct a water pipe under the right-of-way of the Trans Mountain Oil Pipe Line Company in the Northeast quarter of Sec. 31, Twp. 52, Rge. 23, W4M, etc.

84708 Oct. 12—In the matter of the application of the C.N.R. for authority to discontinue as an agency their station at Cedoux, Saskatchewan.

84709 Oct. 12—In the matter of the application of the City of Edmonton, Alberta, for installation of automatic protection at the crossing of 97th Street and the C.N.R., near 126th Avenue, Edmonton, Alberta.

84710 Oct. 13—Authorizing the South Saskatchewan Pipe Line Company to construct a crude oil pipe line across the right-of-way of the Interprovincial Pipe Line Company in the Northwest quarter of Sec. 5, Twp. 18, Rge. 20, W2M, Saskatchewan.

84711 Oct. 13—Permitting the removal of slow order at C.P.R. crossing just north of the station at Corwhin, Ontario.

84712 Oct. 13—Permitting the removal of slow order at C.N.R. crossing east of switch at Bloom, Manitoba.

84713 Oct. 13—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Melville, Saskatchewan.

84714 Oct. 13—Authorizing the C.N.R. to remove their station agent at Goodwater, Saskatchewan.

84715 Oct. 13—Authorizing the C.N.R. to construct a private siding to serve Products Tank Car Shops Limited, Township of Trafalgar, Ontario.

84716 Oct. 13—In the matter of the application of the C.N.R. for approval of plan showing signalling as installed between mileage 0·25 and mileage 0·5, Batiscan Subdivision, Quebec.

84717 Oct. 13—Authorizing the Saskatchewan Department of Highways and Transportation to construct its highway across the C.P.R., near Insinger, Saskatchewan.

84718 Oct. 13—In the matter of the application of the C.P.R. for approval of route map showing branch line of railway proposed to be built by the C.P.R. from a point on its main line near Mitford, Alberta, to a point in Sec. 13, Twp. 25, Rge. 5, W5M, Alberta.

84719 Oct. 13—Permitting the removal of slow order at C.N.R. crossing north of Brussels, Ontario.

84720 Oct. 13—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Birtle, Manitoba.

84721 Oct. 13—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 2 across the C.P.R. at mileage 44·8, Expanse Subdivision, Saskatchewan.

84722 Oct. 13—In the matter of the application of the Trans Mountain Oil Pipe Line Company for an Order exempting it from submitting plan, etc., in respect of a proposed relocation of its company pipe line in Sec. 10, Twp. 53, Rge. 4, W5M, Alberta.

84723 Oct. 13—Authorizing the C.N.R. to construct a spur to serve Goodyear Tire and Rubber Company along Smith Street, Regina, Saskatchewan.

84724 Oct. 13—In the matter of the application of the C.N.R. for an Order authorizing discontinuance of certain passenger train services in Pictou County, Nova Scotia.

84725 Oct. 13—In the matter of the application of the Township of Sutton, Quebec, for an Order authorizing the installation of automatic protection at the crossing of the highway and the C.P.R.

84726 Oct. 13—In the matter of the application of the C.N.R. and Sherritt Gordon Mines Limited for an Order authorizing the C.N.R. to operate their trains through the interlocking at the crossing of the C.N.R. and the narrow gauge railway of Sherritt Gordon Mines Limited, Lynn Lake, Manitoba.

84727 Oct. 14—In the matter of the application of the C.N.R. for approval of plan showing the existing clearances at the siding serving B. F. Goodrich Rubber Company of Canada Limited, Kitchener, Ontario.

84728 Oct. 14—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under sections 3 and 8.

84729 Oct. 14—Permitting the removal of slow order at C.N.R. crossing and Atwater Street, Montreal, Quebec.

84730 Oct. 14—Permitting the removal of slow order at C.N.R. crossing and Main Street, Sussex, New Brunswick.

84731 Oct. 14—Permitting the removal of slow order at C.N.R. crossing of O'Brien Boulevard, north of Monkland Station, Montreal, Quebec.

84732 Oct. 14—Permitting the removal of slow order at C.N.R. crossing west of station at Ste-Ursule, Quebec.

84733 Oct. 14—Permitting the removal of slow order at C.P.R. crossing east of station at Pilot Butte, Saskatchewan.

84734 Oct. 14—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc., at Brent, Ontario.

84735 Oct. 15—Permitting the removal of slow order at C.N.R. crossing and Highway No. 17 north of station at Coniston, Ontario.

84736 Oct. 15—Authorizing the Town of St. Felicien, Quebec, to construct Ste. Anne Street across the right-of-way of the C.N.R. in the Town of St. Felicien, Quebec.

84737 Oct. 15—In the matter of the application of the C.P.R. for an Order authorizing it to close the station at Scope, Alberta.

84738 Oct. 15—Authorizing the C.P.R. to close the station at Armelgra, Alberta.

84739 Oct. 15—Permitting the removal of slow order at C.P.R. crossing of 7th Avenue, Regina, Saskatchewan.

84740 Oct. 15—In the matter of the application of the Canadian General Electric Company Limited *re* classification rating on combination electric and coal stoves.

84741 Oct. 15—Authorizing the Quebec Department of Roads to relocate the highway where it crosses the Quebec Central Railway Company at mileage 31·27 to mileage 31·38, Newport Subdivision, Quebec.

84742 Oct. 15—In the matter of approval of plan submitted to the Dominion Atlantic Railway Company by Imperial Oil Limited showing proposed location of storage tanks, etc., at Kentville, Nova Scotia.

84743 Oct. 15—Permitting the removal of slow order at C.P.R. crossing south of Midnapore, Alberta.

84744 Oct. 15—In the matter of approval of plan submitted to the C.N.R. by the Standard Oil Company of British Columbia showing proposed location of storage tanks, etc., at Prince George, British Columbia.

84745 Oct. 15—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Davidson, Saskatchewan.

84746 Oct. 15—In the matter of approval of plan submitted to the C.N.R. by Home Gas Limited showing proposed location of storage tanks, etc., at St. Boniface, Manitoba.

84747 Oct. 15—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited showing proposed location of storage tanks, etc., at Oak River, Manitoba.

84748 Oct. 15—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Innisfail, Alberta.

84749 Oct. 15—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited showing proposed location of storage tanks, etc., at Cartwright, Manitoba.

84750 Oct. 15—In the matter of the application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Belle Plaine, Sask.

84751 Oct. 15—Approving revised Appendix between the Bell Telephone Company of Canada and the Docon Telephones Limited.

84752 Oct. 18—In the matter of the application of the Northwestern Utilities Limited for leave to construct a natural gas pipe line across the right-of-way of the Interprovincial Pipe Line Company in the Southwest quarter of Sec. 5, Twp. 53, Rge. 23, W4M, Alberta.

84753 Oct. 18—Authorizing the Interprovincial Pipe Line Company to open for the transportation of oil a section of its company pipe line in the vicinity of the Village of Macrorie, Saskatchewan.

84754 Oct. 18—In the matter of the Application of the Saskatchewan Department of Highways and Transportation for an Order authorizing the construction of the Trans Canada Highway across the C.P.R. by means of an overhead bridge at mileage 94·64 Maple Creek Subdivision, Saskatchewan.

84755 Oct. 18—Authorizing the C.P.R. to fill in the bridge at mileage 19·9 Haunavon Subdivision, Saskatchewan, etc.

84756 Oct. 18—In the matter of the application of the C.N.R. for approval of plan showing automatic protection installed at the crossing of their railway at Mountain Street, Granby, Quebec.

84757 Oct. 18—Authorizing the Western Pipe Lines to open for the transportation of natural gas its company pipe line which commences at a point on the International Boundary in the Niagara River, north of Lewiston Bridge and terminates at a point near the Village of Sheridan, Ontario.

84758 Oct. 18—Authorizing the Village of Andrew, Alberta, to construct the highway across the C.P.R. at mileage 115·6, Willingdon Subdivision, Alberta.

84759 Oct. 18—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Aylmer and Malahide Telephone Company Limited.

84760 Oct. 18—Authorizing the City of Calgary to construct for temporary traffic 5th Street across the C.P.R. in the City of Calgary, Alberta.

84761 Oct. 19—Authorizing the C.N.R. to reconstruct the bridge over the Rouge River, at mileage 12·9, Sorel Subdivision, Quebec.

84762 Oct. 19—Approving Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone Wotton.

84763 Oct. 19—Authorizing the C.N.R. to operate under the overhead bridge at mileage 4·95 Thorburn Subdivision, Nova Scotia.

84764 Oct. 19—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and The North Horton Telephone Association Limited.

84765 Oct. 19—In the matter of approval of plan submitted to the C.N.R. by Shell Oil Company of Canada Limited showing proposed location of storage tanks, etc., at Wieland, Quebec.

84766 Oct. 19—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under section 8.

84767 Oct. 19—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed location of storage tanks, etc., at Vimy, Alberta.

84768 Oct. 19—In the matter of the application of the C.N.R. for an Order extending the time within which it was required by Order No. 83735, to install automatic protection at the crossing of Centre Street, Napanee, Ont.

84769 Oct. 19—In the matter of the application of the New York Central Railroad Company for authority to remove the caretaker and the station building at Alvinston, Ontario.

84770 Oct. 19—Authorizing the United Townships of Neelon and Garson, Ontario, to construct Auger Avenue across the C.N.R. at mileage 2·0 Sudbury Terminal Subdivision, District of Sudbury, Ontario.

84771 Oct. 19—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited showing proposed location of storage tanks, etc., at Stettler, Alberta.

84772 Oct. 19—In the matter of the application of the C.N.R. for an Order authorizing them to close as an agency their station at Riceton, Sask.

84773 Oct. 19—Dismissing the application of the C.P.R. for an Order authorizing it to remove the agent and appoint a caretaker at Silton, Saskatchewan.

84774 Oct. 19—Authorizing the C.N.R. to operate the bridge over Serviceberry Creek, Province of Alberta, at mileage 81·9, Drumheller Subdivision.

84775 Oct. 19—Relieving the C.P.R. from erecting and maintaining cattle guards at certain highway crossings on its Lacombe Subdivision, Alberta.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of Canadian General Electric Company Limited re Classification rating on Combination Electric and Coal Stoves.

File 33365·163

RULING

BY THE BOARD:

By written submissions the applicant, Canadian General Electric Company Limited, seeks a declaratory order setting out the applicable classification rating on combination electric and coal stoves under the Canadian Freight Classification No. 19.

Both the applicant and the respondent railways have asked that we rule upon the matter at issue on the basis of the written submissions.

The point involved as to classification rating related to the period prior to the issuance of supplement No. 37 to Canadian Freight Classification No. 19 which became effective April 26, 1954. With such effective date specific ratings were provided for "Stoves or Ranges, Iron or Steel, Coal or Wood and Electric Combined." The applicant does not take issue with such classification provisions.

Prior to the above date no specific rating was provided in the Classification for the combination stoves. In items 22 and 24, page 25, of supplement No. 31, specific ratings were provided for "Stoves or Ranges, Electric, Iron or Steel, Cooking, N.O.I.B.N." and item 17, page 220 of the Classification then provided, and still provides, ratings on "Stoves or Ranges, N.O.I.B.N.".

95116—1

The applicant maintains that prior to April 26, 1954, the proper ratings to apply on combination coal and electric stoves are those set out in item 17, page 220 of the Classification and asserts that the descriptive words "Coal" and "Electric" are qualifying adjectives of the noun "ranges". It contends that "to assess charges on a shipment of these articles there would be a need to classify only one article—a range—".

The position taken by the applicant is in opposition to the application by the railways of the provisions of Rule 19 of the classification reading:

> "When not specifically classified combination articles such as a combination chair and step ladder or an article used both as sweeping compound and furniture polish will be charged at the rating for the highest classed article of the combination."

whereunder the rating applied to the combination coal and electric stoves has been that applicable to electric stoves as previously set out in supplement No. 31 *supra*.

The applicant's contention appears to be that Rule 19 is not applicable because there is but one article involved and that in the absence of specific ratings for the one article which combines the functions of an electric and a coal stove the provisions of Item 17, page 220, applicable to stoves or ranges, N.O.I.B.N. are properly applicable.

The contentions of the railways may be summarized as adhering to the application of the provisions of Rule 19. The following extract from their submission sets out their main opposition to the application:

> "the product of the complainant's company is definitely a combination article within the meaning of the above mentioned Rule, and in this connection it should be noted that the shippers refer to their product as a 'combination' coal and electric range. A coal stove is one article when shipped separately and properly ratable under the ratings provided for Stoves or Ranges N.O.I.B.N., and an electric stove is another article when shipped separately and ratable under ratings provided for Stoves or Ranges, Electric, Iron or Steel. In other words, they are two distinct articles which, when combined into one unit, become a combination article not specifically classified and therefore subject to Rule 19 of the Classification covering combination articles.
>
> "what the Canadian General Electric Company Ltd. are seeking to obtain on carload traffic for example, is a rating of 5th class on a combination electric and coal range, as compared with the higher 4th class rating applicable on an individual electric stove. It is manifestly unreasonable to expect the rail carriers to handle a combination article, one portion of which is a complete electric stove, at lower charges than applicable on a single electric stove.
>
> "ratings provided in the Classification under the description 'Stoves or Ranges, N.O.I.B.N.', would apply on a combination coal or wood stove which is a single article using the same common receptacle for its combustible material, whereas the article under review consists of two separate and distinct heating units and therefore properly ratable as a combination article."

After careful consideration of all that has been submitted and reviewing the pertinent portions of the Classification we are of the opinion that while the electric and coal stoves are contained in one unit there is a distinct difference in the functioning of each type of stove. We therefore conclude that the single unit comprises a combination article within the meaning of Rule 19 of the Classification.

If there were no difference in rating as between various types of stoves or ranges there would be no real necessity to qualify the nouns "stoves or ranges" by the adjectives "electric", "coal", etc. With such differences in ratings the adjectives are a necessary part of the description of the articles in order to allocate such articles to their proper classification.

It was not until supplement 37 became effective that specific ratings were provided for the combination stove, but when it was so specifically provided the ratings made applicable were those previously applied to Electric Stoves and Ranges, thereby carrying out the same ratings as had been applied pursuant to Rule 19.

Item 17, page 220 of the Classification providing ratings on stoves or ranges is limited to such articles "N.O.I.B.N." which page 1 of the Classification defines as meaning "Not otherwise indexed by name". Concurrently with the provision of the said ratings was specific provision for ratings on Electric Stoves, thereby removing beyond any doubt any possibility of applying the N.O.I.B.N. ratings to Electric stoves or ranges.

Having reached the conclusion that the single unit combining the functions of an electric and coal stove is a combination article we cannot do other than find that the proper rating to apply to such combination article is that brought about by the application of the provisions of Rule 19 of the Classification.

We therefore declare that the proper ratings to apply on combination electric and coal stoves prior to April 26, 1954, were those set out in items 14 and 15, page 100 of Canadian Freight Classification No. 19 and as amended by supplements 26 and 31 thereto. An Order will issue accordingly.

JOHN D. KEARNEY,
Chief Commissioner.

OTTAWA, October 15, 1954.

I concur:

A. SYLVESTRE.

ORDER No. 84740

In the matter of the application of the Canadian General Electric Company Limited re classification rating on combination electric and coal stoves:

File No. 33365·163

FRIDAY, the 15th day of October, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon consideration of the submission filed—

It is declared that the ratings in Canadian Freight Classification No. 19 on combination electric and coal stoves prior to April 26, 1954, were those set out in items 14 and 15, page 100 of the said Classification No. 19 and as amended by supplements Nos. 26 and 31 thereof.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 84865

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 63:

File No. 40994·50

MONDAY, the 1st day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 63 on file with the Board under file No. 40994·50 be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as August 2, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84889

In the matter of the applications of the Canadian Freight Association for approval of an agreed charge, dated May 4, 1954, between the railways named therein and General Motors of Canada, Limited and for approval of Supplement No. 1 thereto between the said railways and General Motors of Canada, Limited and The Studebaker Corporation of Canada, Limited:

File No. 40994·60

WEDNESDAY, the 3rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon hearing the applications at sittings of the Board at Ottawa on October 1, 1954, in the presence of Counsel for the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, Saskatchewan Motor Dealers Association, Canadian Trucking Associations, New York Central Railroad Company, Chrysler Corporation of Canada, Limited, the Province of Alberta, Maclin Motors Ltd. and Freeman-Wilson Ltd., and for reasons which will be given in writing at a later date—

It is ordered

1. That the said agreed charge dated May 4, 1954, on file with the Board under file No. 40994·60 between the railways named in paragraph A thereof and General Motors of Canada, Limited, applying on Automobiles and Automobile Chassis described in paragraph B thereof from Oshawa, Walkerville and Windsor, in the Province of Ontario, to stations and/or places in the Provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, specified in paragraph D thereof, be, and it is hereby, approved; and the Board hereby fixes the 7th day of May, 1954, as the date from which the said agreed charge shall be deemed to have become operative.

2. That the said Supplement No. 1 to the agreed charge mentioned in paragraph numbered 1 hereof, between the said railways and General Motors of Canada, Limited and The Studebaker Corporation of Canada, Limited be, and it is hereby approved; and the Board hereby fixes the 12th day of May 1954, as the date from which the said Supplement No. 1 shall be deemed to have become operative.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84899

In the matter of agreed charges on automobiles and automobile chassis between General Motors of Canada, Limited; The Studebaker Corporation of Canada, Limited, and railways named therein, dated May 4, 1954, as amended, approved by Order No. 84889, dated November 3, 1954:

File No. 40994·60

WEDNESDAY, the 3rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas Morris Motors (Canada) Limited has made application under subsection (8) of section 32 of the Transport Act, and represented to the Board that its business will be unjustly discriminated against unless a charge, the same as the agreed charge aforesaid, be fixed for the transport of its automobiles and automobile chassis from Hamilton, Ontario—

It is ordered that the agreed charges approved by Order No. 84889, dated November 3, 1954, be, and they are hereby, fixed for the transport, by the railways named therein, of automobiles and automobile chassis as described in Paragraph B of the said agreed charge for Morris Motors (Canada) Limited, from the stations named in Paragraph C(1) and from Hamilton Ontario, to the stations named in Paragraph C(2) of the said agreed charge, subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby appoints July 2, 1954, as the date on which the said charges fixed as aforesaid are to become effective.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84923

In the matter of the application of Kingston Suppliers, Division of Macdonalds Consolidated Limited, Vancouver, British Columbia, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

MONDAY, the 8th day of November, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Kingston Suppliers, Division of Macdonalds Consolidated Limited, has made application under subsection 8 of section 32 of the Transport Act and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of canned goods as described in paragraph B of the said tariff, shipped by Kingston Suppliers, Division of Macdonalds Consolidated Limited, from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84776 Oct. 20—In the matter of application of the C.N.R. for an Order amending Order No. 84266 which approved plan showing the proposed location of storage tanks, etc., of Imperial Oil Limited at Wildwood, Alberta.

84777 Oct. 20—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Dominion Atlantic Railway Company under section 3.

84778 Oct. 20—Permitting the removal of slow order at C.N.R. crossing north of Garson Junction, Ontario.

84779 Oct. 20—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of storage tank, etc., at Brantford, Ontario.

84780 Oct. 20—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 83079, to install certain protection at the crossing of Old Belleville Road west of the station at Napanee, Ontario.

84781 Oct. 20—Permitting the removal of slow order at C.N.R. crossing west of Petite Rivière Station, Quebec.

84782 Oct. 20—Permitting the removal of slow order at C.N.R. crossing east of Atikokan, Ontario.

84783 Oct. 20—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

84784 Oct. 20—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited, showing proposed location of storage tanks, etc., at Gladstone, Manitoba.

84785 Oct. 20—In the matter of the application of the C.N.R. for approval of plan showing protection as installed at the crossing of King's Park Road, St. Laurent, Quebec.

84786 Oct. 20—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Leask, Saskatchewan.

84787 Oct. 20—Authorizing the Alberta Department of Highways to re-locate the highway where it crosses the C.N.R. at St. Albert Settlement, Alberta.

84788 Oct. 20—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84789 Oct. 20—In the matter of the application of the Alberta Department of Highways for installation of automatic protection at the crossing of Highway No. 16 and the C.N.R. at mileage 2·28 Camrose Subdivision, Alberta.

84790 Oct. 20—Authorizing the C.N.R. to construct an industrial track across Madison Street and King Edward Street to serve the industrial area between Ellice Avenue and Barry Avenue, all in the Rural Municipality of St. James, Manitoba.

84791 Oct. 20—Authorizing the C.N.R. to reconstruct their bridge over Hennessey Creek, Ontario.

84792 Oct. 20—Permitting the removal of slow order at C.N.R. crossing at Uptergrove, Ontario.

84793 Oct. 21—Permitting the removal of slow order at C.N.R. crossing of Ridout Street, London, Ontario.

84794 Oct. 21—Permitting the removal of slow order at C.N.R. crossing of Carruthers Street in the City of Ottawa, Ontario.

84795 Oct. 21—Permitting the removal of slow order at C.N.R. crossing west of the station at Bremner, Alberta.

84796 Oct. 21—Permitting the removal of slow order at crossing of Highway No. 98 and the railway of the Chesapeake & Ohio Railway Company west of Blenheim, Ontario.

84797 Oct. 21—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 16, west of station at East Edmonton, Alberta.

84798 Oct. 21—Authorizing the C.N.R. to operate the bridge across Sault à la Puce River, Quebec.

84799 Oct. 21—Authorizing the C.N.R. to operate the bridge across Rivière des Chiens, Quebec.

84800 Oct. 21—Permitting the removal of slow order at C.P.R. crossing in the Municipality of Pointe au Chêne, Argenteuil County, Quebec.

84801 Oct. 21—Permitting the removal of slow order at C.N.R. crossing, east of Dixie Station, Lachine, Quebec.

84802 Oct. 21—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 83689 to install certain protection at crossing of Jackson and Hunter Streets, etc., Hamilton, Ontario.

84803 Oct. 21—In the matter of the application of the C.N.R. for approval of plan showing changes in the protection at the crossing of Jane Street, Weston, Ontario.

84804 Oct. 21—In the matter of the application of the C.N.R. for an Order extending the time within which it was required by Order No. 83502, to install certain protection at the crossing of Ste. Helene Street, in the Town of Montreal South, Quebec.

84805 Oct. 22—Approving Service Station Contract between the Bell Telephone Company of Canada and the Dalesville Rural Telephone Company.

84806 Oct. 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Trochu, Alberta.

84807 Oct. 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Delisle, Saskatchewan.

84808 Oct. 22—Permitting the removal of slow order at C.N.R. crossing near Barraute, Abitibi County, in the Province of Quebec.

84809 Oct. 22—In the matter of approval for the loading of crude oil from tank trucks to tank cars by Mr. J. A. Beattie, on the trackage of The Chesapeake and Ohio Railway Company at Rodney, Ontario.

84810 Oct. 22—Authorizing the C.N.R. to remove the signal equipment from the spur at mileage 66·9 Ashcroft Subdivision, British Columbia.

84811 Oct. 22—Approving plan showing the private industrial spur to serve Yukon Lumber Co., at mileage 14·55 Yale Subdivision, British Columbia.

84812 Oct. 22—In the matter of the allocation of the cost of maintenance of the bells and wig wags installed at the crossing of Highway No. 47 and the C.N.R. west of Stouffville Station, Ontario.

84813 Oct. 22—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tank, etc., at Dodsland, Saskatchewan.

84814 Oct. 22—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tank, etc., at The Pas, Manitoba.

84815 Oct. 22—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tank, etc., at Benito, Manitoba.

84816 Oct. 22—In the matter of approval of plans submitted showing proposed site for loading of crude oil from tank trucks to tank cars by Williston Oil and Gas Company, on trackage of the C.P.R. at Forget, Sask.

84817 Oct. 22—In the matter of the application of the Alberta Department of Highways for an Order authorizing the installation of automatic protection at the crossing of the C.N.R. and Highway No. 14, mile 4·32 Camrose Subdivision.

84818 Oct. 22—In the matter of the application of the City of Sudbury, Ontario, for an Order authorizing the installation of automatic protection at the crossing of the C.N.R. and Melvin Avenue, Sudbury, Ontario.

84819 Oct. 22—In the matter of the application of the Bell Telephone Company of Canada for approval of Traffic Agreement between the Applicant Company and The East Luther Telephone System.

84820 Oct. 22—In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge dated February 26, 1954.

84821 Oct. 25—In the matter of the application of Panther Oil & Grease Mfg. Co. of Canada Limited dated October 7, 1954, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 11.

84822 Oct. 25—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84823 Oct. 25—In the matter of the application of the Bell Telephone Company of Canada, for approval of Traffic Agreement between the Applicant Company and the Cumberland Telephone System.

84824 Oct. 25—In the matter of the application of the City of Sudbury, Ontario, for an Order authorizing the installation of automatic protection at the crossing of the C.P.R. and Douglas Street, Sudbury, Ontario.

84825 Oct. 26—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Wapella, Saskatchewan.

84826 Oct. 26—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Pierson, Manitoba.

84827 Oct. 26—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

84828 Oct. 26—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 83809 to install certain protection at crossing of Cote Noire Road, Quebec.

84829 Oct. 26—In the matter of approval of plan submitted by the Northern Alberta Railways Company on behalf of Shell Oil Company, showing crude oil lading facilities at Kenzie, Alberta.

84830 Oct. 26—In the matter of approval of plan submitted to the N.Y.C.R. by Reliance Petroleum Limited, showing the proposed location of storage tanks, etc., at Essex, Ontario.

84831 Oct. 26—In the matter of the application of the Township of Seneca, Ontario, for an Order amending Order No. 82462, as amended by Order No. 84607, which authorized it to make improvements in the approach grade at the crossing of the highway and the C.N.R. east of the station at Caledonia, Ontario.

84832 Oct. 26—In the matter of the application of the County of Brant, Ontario, for an Order authorizing the reconstruction of the overhead bridge at mileage 19·57 Dundas Subdivision, in the Township of Brantford, County of Brant, Ontario.

84833 Oct. 26—In the matter of the application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Crestwynd Station, Saskatchewan.

84834 Oct. 26—In the matter of the application of the Interprovincial Pipe Line Company for an Order granting leave to open the Applicant Company's second pipe line across the Battle River, Alberta.

84835 Oct. 27—Authorizing the C.N.R. to make changes in the automatic protection at the crossing of the highway and railway, east of the station at l'Islet, Quebec.

84836 Oct. 27—In the matter of the application of the City of Brandon, Manitoba, for an Order authorizing the installation of automatic protection at the C.N.R. crossing and Sixth Street, Brandon, Manitoba.

84837 Oct. 27—In the matter of the application of the C.P.R. for an Order approving plan, profile and book of reference showing proposed location of a branch line of railway to be constructed near Mitford, Alberta.

84838 Oct. 27—In the matter of approval of plan submitted to the C.P.R. by McKay and Stretton Limited, showing the proposed location of storage tanks, etc., near Castlegar, British Columbia.

84839 Oct. 27—In the matter of the application of Sun-Joy Foods Limited of Picton, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 62 as approved by the Board.

84840 Oct. 27—In the matter of the application of the City of Brandon, Manitoba, for an Order authorizing the installation of automatic protection at the C.N.R. crossing and Eighteenth Street, Brandon, Manitoba.

84841 Oct. 28—Approving under the Maritime Freight Rates Act toll published in Tariff by the Sydney and Louisburg Railway Company under section 3.

84842 Oct. 28—In the matter of the application of the C.N.R. for approval of plan showing the proposed revisions to automatic signals between certain mileages Superior Junction to Sioux Lookout, Ontario.

84843 Oct. 28—In the matter of approval of plan submitted to The Algoma Central and Hudson Bay Railway Company by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Jamestown, Ont.

84844 Oct. 28—Permitting the removal of slow Order at C.P.R. crossing and Evans Avenue, Mimico, Ontario.

84845 Oct. 29—Permitting the removal of slow Order at C.P.R. crossing of Highway No. 36, at Lindsay, Ontario.

84846 Oct. 29—In the matter of the application of Northwestern Utilities Limited, for leave to construct a pipe line across and under the pipe line of the Trans-Mountain Oil Pipe Line Company, in the NE. ¼-9-52, Rg. 24, W4M, Alberta.

84847 Oct. 29—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing the proposed location of storage tanks, etc., at Forestburg, Alberta.

84848 Oct. 29—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Norquay, Saskatchewan.

84849 Oct. 29—In the matter of the application of the C.N.R. for authority to install gas pipe lines under their railway in Zone 4 of Montreal Terminals between Dorchester Street and William Street, Montreal, Quebec.

84850 Oct. 29—In the matter of the application of The Chesapeake and Ohio Railway Company for approval of plan which shows the electric interlocking to be installed at the crossing of its railway and the railway of the N.Y.C.R. at Pelton, Ontario.

84851 Oct. 29—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Sudbury, Ontario.

84852 Oct. 29—In the matter of approval of plan submitted to the C.P.R. by Key Pipeline Company Limited, showing the proposed location of storage tanks, etc., at Guiler, Saskatchewan.

84853 Oct. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Gervais Telephone System.

84854 Oct. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Orono Telephone Company.

84855 Oct. 29—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited, showing the proposed location of storage tank, etc., at Inglis, Manitoba.

84856 Oct. 29—Permitting the removal of slow order at C.P.R. crossing at Mount Elgin, Ontario.

84857 Oct. 29—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada, and The Haldimand Rural Telephone Company Limited.

84858 Oct. 29—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Haldimand Rural Telephone Company Limited.

84859 Oct. 29—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tanks, etc., at Preeceville, Saskatchewan.

84860 Oct. 29—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

84861 Oct. 29—In the matter of the application of the C.N.R. for authority to remove the station agent at Hardy, Saskatchewan.

84862 Oct. 29—In the matter of the application of the Interprovincial Pipe Line Company for an Order authorizing the use and operation of its crossing of the South Saskatchewan River, Province of Saskatchewan, with a third pipe line located in the North Half of Section 31-27-R7-W3M.

84863 Oct. 29—Authorizing the Interprovincial Pipe Line Company to open, for the transportation of oil, a section of its company pipe line, in the vicinity of the Village of Macrorie, Saskatchewan.

84864 Nov. 1—Authorizing the C.N.R. to replace the existing mechanical interlocker at the crossing of their Edmonton Terminals Subdivision and the C.P.R., near South Edmonton, Alberta, by a semi-automatic interlocker.

84865 Nov. 1—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 63.

84866 Nov. 1—In the matter of the application of the Bell Telephone Company for approval of Supplement to Traffic Agreement between the Applicant Company and The Commissioners for the Telephone System of the Municipality of the Township of Laird.

84867 Nov. 1—Authorizing the C.P.R. to close the highway crossing in the Township of Caledonia, County of Prescott, Ontario, at mileage 39·53, M. & O. Subdivision.

84868 Nov. 1—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Darlingford, Manitoba.

84869 Nov. 1—In the matter of the application of Super-Service Stations, Limited for an Order giving leave to terminate a siding agreement.

84870 Nov. 1—Approving clearances at C.P.R. siding serving Thomson Groceries Limited at Toronto, Ontario.

84871 Nov. 1—In the matter of approval of plan submitted to the C.N.R. by the North Battleford Co-Operative Association Limited, showing the proposed location of storage tank, etc., at North Battleford, Sask.

84872 Nov. 1—In the matter of filing of tariffs by The Canadian National Telegraphs.

84873 Nov. 1—In the matter of filing of tariffs by the C.P.R., Communications Department.

84874 Nov. 1—In the matter of the application of the C.N.R. for authority to make certain changes in the protection installed at the crossing of Rivière du Sud Road, Montmagny, Quebec.

84875 Nov. 1—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 7, west of the station at Blackwater, Ontario.

84876 Nov. 1—In the matter of the application of the C.N.R. for approval of plan showing the automatic protection as installed at the crossing of Monaghan Road, Peterborough, Ontario.

84877 Nov. 1—In the matter of the application of the C.N.R. for approval of plan showing the highway as constructed across their right-of-way, Innisfil Township, Ontario, at mileage 77·31 Milton Subdivision.

84878 Nov. 1—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tank, etc., at Langenburg, Saskatchewan.

84879 Nov. 1—In the matter of the application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Arnaud Station, Man.

84880 Nov. 2—In the matter of the application of the County of Welland, Ontario, for an Order authorizing the construction of West Side Road across the Michigan Central Railway in the County of Welland, Ontario.

84881 Nov. 2—Authorizing the C.N.R. to make changes to the automatic block signal system between Barlee Junction and Ferlow Junction, Alta.

84882 Nov. 2—In the matter of the application of the C.P.R. for an Order amending Order No. 84755, dated October 18, 1954, which authorized it to fill in the bridge at mileage 19·9 Shaunavon Subdivision, Saskatchewan.

84883 Nov. 2—In the matter of the application of the C.N.R. for an Order authorizing them to install certain protection at crossing of 115th Avenue, Edmonton, Alberta.

84884 Nov. 2—In the matter of the application of the Town of Brockville for an Order authorizing the construction of Central Avenue across the C.P.R. Brockville, Ontario.

84885 Nov. 2—In the matter of the application of New Superior Oils of Canada Limited, for authority to drill Superior Joseph Lake No. 101 well in the Northwest quarter of Section 36-49-R22, W4M, Alberta.

84886 Nov. 3—In the matter of the application of the C.N.R. for approval of terms and conditions on certain ticket forms.

84887 Nov. 3—In the matter of the application of the Department of Highways and Transportation, Saskatchewan, for an Order authorizing the construction of Highway No. 2 across the C.P.R. in the Southeast quarter of Section 11-11-R30, W2M, Saskatchewan.

84888 Nov. 3—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Esterhazy, Saskatchewan.

84889 Nov. 3—In the matter of the applications of the Canadian Freight Association for approval of an agreed charge, between the railways named therein and General Motors of Canada, Limited and for approval of Supplement No. 1 thereto between the said railways and General Motors of Canada, Limited and The Studebaker Corporation of Canada, Limited.

84890 Nov. 3—Authorizing The Chesapeake and Ohio Railway Company to construct an overhead pedestrian bridge across its right-of-way on the 1st Subdivision at the terminus of Ypres Boulevard, east of Walker Road, Windsor, Ontario.

84891 Nov. 3—In the matter of the approval of plan submitted to the C.N.R. by Nicholson File Company of Canada, Limited, showing the location of storage tank, etc., at Port Hope, Ontario.

84892 Nov. 3—In the matter of the application of the C.N.R. for approval of plan, showing proposed change to be made in the protection at the crossing of Depot Street, Grimsby, Ontario.

84893 Nov. 3—In the matter of installation of automatic protection at the crossing of the C.N.R. and Prince Street, Sorel, Quebec.

84894 Nov. 3—In the matter of the application of the City of St. Thomas, Ontario, for a review by the Board of its Order No. 84570, dated September 20, 1954, which authorized C.N.R. to install automatic protection to replace the existing manually operated gates at the crossing of Manitoba Street, St. Thomas, Ontario.

84895 Nov. 4—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canadian Freight Association under section 3.

84896 Nov. 4—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

84897 Nov. 4—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8.

84898 Nov. 4—In the matter of the application of the Town of LaSarre, for the installation of automatic protection at the crossing of Main Street and the C.N.R. in the Town of LaSarre, Quebec.

84899 Nov. 3—In the matter of agreed charges on automobiles and automobile chassis between General Motors of Canada, Limited; The Studebaker Corporation of Canada, Limited, and railways named therein.

84900 Nov. 4—In the matter of the crossing of Sacre-Cœur Avenue Road and the right-of-way of the C.N.R. in the Village of Charlemagne, Quebec.

84901 Nov. 4—Authorizing the C.P.R. to use and operate over the subway at 14th Street West, Calgary, Alberta.

84902 Nov. 4—Permitting the removal of slow order at C.N.R. crossing of Greenwood Avenue, Toronto, Ontario.

84903 Nov. 4—Approving Supplement to Service Station Contract between the Bell Telephone Company and The Corporation of the Township of Colchester North.

84904 Nov. 4—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of storage tanks, etc., at Rivière du Loup, Que.

84905 Nov. 4—In the matter of the application of the C.N.R. for an Order approving the French text of General Order No. 488, dated October 2, 1930, as submitted by the Applicants.

84906 Nov. 4—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc., at Young, Saskatchewan.

84907 Nov. 4—In the matter of Order No. 72520, dated June 2, 1949, which approved the installation of bulk oil facilities by Gas & Oil Products Limited, near the tracks of the C.P.R. at Calgary, Alberta.

84908 Nov. 4—In the matter of the application of the C.P.R. for an Order authorizing it to use and operate over the subway at Dufferin Street, Toronto, Ontario.

84909 Nov. 4—In the matter of the application of North Star Oil Company, Limited, for leave to construct four pipe lines under the C.N.R. in the vicinity of Panet Road, Winnipeg, Manitoba.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 84944

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated September 28, 1954:

File No. 40994·65

FRIDAY, the 12th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated September 28, 1954, between the British Columbia Electric Railway Company, Limited, the Canadian National Railway Company, the Ontario Northland Railway and Canadian Johns-Manville Company, Limited, on Pipe, Pressure, Cement, containing Asbestos Fibre, and Couplings for same, carloads, as specified therein, from Port Union, Ontario, to New Westminster, Prince Rupert, Vancouver and Victoria, British Columbia, as specified therein, on file with the Board under file No. 40994·65, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 29th day of September, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

95117—1

ORDER No. 84945

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 59:

File No. 40994·48

FRIDAY, the 12th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 59 on file with the Board under file No. 40994·48, be, and it is hereby, approved; and that the date as from which the said Supplement No. 2 shall be deemed to have become operative is hereby fixed as September 30, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84950

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 71:

File No. 40994·55

FRIDAY, the 12th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 71 on file with the Board under file No. 40994·55, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84984

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated October 5, 1954:

File No. 40994·66

WEDNESDAY, the 17th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated October 5, 1954, between the Canadian National Railway Company, Canadian Pacific Railway Company, F. M. Yorke and Son Limited and Shell Oil Company of Canada, Limited on all gas, petroleum, Liquefied, carloads, in tank cars only, as specified therein, applicable from Shellburn, British Columbia, to railway stations and/or destinations in the Province of British Columbia within the area to which rates are provided for in Paragraph "D", except West of Hope, British Columbia, on the Canadian National Railways, on file with the Board under file No. 40994·66, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 6th day of October, 1954, and to continue in effect subject to Condition 6 thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 84986

In the matter of the application of The British American Oil Company Limited, of Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 42 as approved by the Board:

File No. 40994·32

WEDNESDAY, the 17th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas The British American Oil Company Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 42, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 42 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said tariff, shipped by The British American Oil Company Limited from Gaspe, Que., to storage tanks of The British American Oil Company Limited at Chandler, Que., subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall be deemed to have come into operation on the 4th day of November, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85015

In the matter of the application of the Canadian Freight Association, dated October 5, 1954, for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) 69:

File No. 40994·63

FRIDAY, the 19th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. (AC) 69, applicable on butter from points in Western Canada to destinations in Eastern Canada, be, and it is hereby approved; and that the date from which the said Supplement No. 2 shall be deemed to have become operative is hereby fixed as October 6, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85016

In the matter of the application of Lovell & Christmas (Canada) Limited, of Montreal, Province of Quebec, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 69 as approved by the Board:

File No. 40994·63

FRIDAY, the 19th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas Lovell & Christmas (Canada) Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its butter, carloads, from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 69, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 69 for the transport, by the railway companies parties thereto, of butter, (carloads), as described in paragraph B of the said tariff, shipped by Lovell & Christmas (Canada) Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall be deemed to have come into operation on the 8th day of November, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85033

In the matter of the application of The William Beatty Company Limited, of Parry Sound, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 11 as approved by the Board:

File No. 40994·3

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas The William Beatty Company Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 11, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge, C.T.C. (AC) No. 11, for the transport, by the railway companies parties thereto, of petroleum products, carloads, as described in paragraph B of the said tariff, shipped by The William Beatty Company Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85034

In the matter of the application of the Canadian Freight Association, dated October 20, 1954, for approval of Supplement No. 28 to Agreed Charge C.T.C. (AC) No. 11:

File No. 40994·3

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 28 to Agreed Charge C.T.C. (AC) No. 11, which adds additional stations in the Toronto area at the same rates as applicable from or to Toronto, Ontario, be, and it is hereby, approved; and that the date from which the said Supplement No. 28 is deemed to have become operative is hereby fixed as the 21st day of October, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85036

In the matter of the application of Manitoba Rolling Mill Company, Limited, of Winnipeg, Province of Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 71 as approved by the Board:

File No. 40994·55

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas Manitoba Rolling Mill Company, Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of iron or steel bars, carloads from Selkirk, Manitoba, to New Westminster, Vancouver and Victoria, B.C., as set out in Agreed Charge C.T.C. (AC) No. 71 as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 71 for the transport by the railway companies parties thereto, of iron or steel bars, carloads, shipped by Manitoba Rolling Mill Company, Limited from Selkirk, Manitoba, to New Westminster, Vancouver and Victoria, B.C., subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85038

In the matter of the application of The Austin Motor Company (Canada) Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76 as approved by the Board:

File No. 40994·60

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas The Austin Motor Company (Canada) Limited, has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, Freight or Passenger, and automobile chassis, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 76, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 76, for the transport of automobiles, Freight or Passenger, and automobile chassis, as described in paragraph B of the said tariff, shipped by The Austin Motor Company (Canada) Limited from stations and/or places named in paragraph C(1), and from Hamilton, Ontario, to the stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall be deemed to have come into operation on the 16th day of November, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85039

In the matter of the application of The William Beatty Company Limited, of Parry Sound, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 52 as approved by the Board:

File No. 40994·40

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas The William Beatty Company Limited has made application under subsection 8 of section 32 of The Transport Act, and has presented to the Board its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 52, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 52, for the transport, by the railway companies parties thereto, of petroleum products, carloads, as described in paragraph B of the said tariff, shipped by The William Beatty Company Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85040

In the matter of the application of the Canadian Freight Association, dated October 20, 1954, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) 52:

File No. 40994·40

TUESDAY, the 23rd day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) 52, which adds additional stations in the Toronto area at the same rates as applicable from Toronto, Ontario, be, and it is hereby, approved; and that the date from which the said Supplement No. 4 is demed to have become operative is hereby fixed as the 21st day of October, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

NOTICES, ORDERS IN COUNCIL, ETC.

The following Orders in Council are reproduced for the information of all concerned.

P.C. 2323

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 22 APRIL 1952.

The Committee of the Privy Council, on the recommendation of the Minister of Transport, advise that pursuant to subsection two of section twelve of The Transport Act, 1938, the vessels of the Quebec and Ontario Transportation Company Limited, hereinafter specified, be exempted from the operation of Part II of The Transport Act, 1938, for the season of navigation of 1952 and for each subsequent season of navigation in which they are engaged in the carriage of package freight for the Ontario Paper Company Limited and for the Quebec North Shore Paper Company:

146581 SS. Shelter Bay
148126 SS. New York News
148087 SS. Outarde
111807 SS. Huron Bay
160889 MS. Chicago Tribune
161593 MS. Franquelin
149497 SS. Washington Times-Herald
158268 Barge Pic River
158269 Barge Black River
173189 Tug Rocky River

N. A. ROBERTSON,
Clerk of the Privy Council.

P.C. 2442

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 25 APRIL 1952

The Committee of the Privy Council, on the recommendation of the Minister of Transport, advise that, under the provisions of subsection two of section twelve of The Transport Act, 1938,—

the S.S. "Martian" of Canada Steamship Lines, Limited, be exempted from the operation of Part II of the said Act, for the season of navigation of 1952 and for each subsequent season of navigation in which the said vessel is engaged exclusively in the carriage of joint rail and water traffic in conjunction with the rail carriers between the eastern termini at Point Edward, Sarnia and Windsor, Ontario, and the western termini at Fort William, West Fort William, and Port Arthur, Ontario,

the vessels of the Canada Steamship Lines, Limited, hereinafter listed, be exempted from the operation of Part II of the said Act, for the season of navigation of 1952 and for each subsequent season of navigation in which the said vessels are engaged in the transport of goods between Quebec and Montreal and intermediate ports:—

PASSENGER AND GOODS VESSELS

St. Lawrence	Richelieu	Tadoussac

GOODS ONLY

Battleford	City of Toronto	Lethbridge
Beaverton	City of Montreal	Saskatoon
Calgarian	City of Windsor	Starmount
Canadian	Edmonton	Selkirk
City of Hamilton	Fernie	Weyburn
City of Kingston	Kenora	Winnipeg
Acadian	Grainmotor	Meaford
Barrie	Hastings	Penetang
Elgin	Kinmount	Simcoe
Fairmount	Mapleheath	Teakbay.

N. A. ROBERTSON,
Clerk of the Privy Council.

P.C. 2523

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 30 APRIL 1952

The Committee of the Privy Council, on the recommendation of the Minister of Transport advise that, pursuant to the provisions of subsection two of section twelve of The Transport Act, 1938, the bulk tankers "Texaco Brave", "Texaco Chief" and 'Texaco Warrior" of the McColl-Frontenac Oil Company, Ltd., be exempted from the operation of Part II of the said Act for the season of navigation of 1952 and for each subsequent season of navigation in which the said vessels are engaged exclusively in the carriage of articles or package freight for McColl-Frontenac Oil Company, Ltd.

N. A. ROBERTSON,
Clerk of the Privy Council.

P.C. 2744

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 9 MAY 1952.

The Committee of the Privy Council, on the recommendation of the Minister of Transport and pursuant to subsection two of section twelve of The Transport Act, 1938, advise that the following vessels be exempted from the operation of Part II of The Transport Act, 1938, for the season of navigation of 1952 and for each subsequent season of navigation during which such vessels are operated under the conditions of operation set forth in Order in Council P.C. 930 of 25th April 1939.

S.S. Norgoma—Owen Sound Transportation Company.

S.S. Norisle—Dominion Transportation Company.

N. A. ROBERTSON,
Clerk of the Privy Council.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, AUGUST, 1954

Railway Accidents	223	Killed	13	Injured	304
Level Crossing Accidents	29	Killed	10	Injured	33
Total	252		23		337

	Killed	*Injured*
Passengers	—	116
Employees	3	176
Others	20	45
Total	23	337

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Quebec

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 306-228.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 178-270.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 192-567.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 185-628.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.J. BO-66-R.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 78-408.

Ontario

1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck ran into side of train. Licence: Ont. 93-200-C.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. GB-280.
—	1	Cement Mixer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 12375-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-4973.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AS-93.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Minn. 178-999.
—	1	Automobile ran into side of train. Licence: Ont. J-9159.
—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Ont. 33632.
—	1	Automobile ran into front of train. Licence: Ont. 28-T-68.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 77-T-45.

Manitoba

—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 2-R-627.
—	4	Automobile struck by track motor car. Licence: Man. 2-N-742.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 5-H-356.

SASKATCHEWAN

Killed	*Injured*	
—	1	Road Maintainer drove onto crossing in front of approaching train and was struck.
4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 155-165.
—	1	Automobile ran into side of train. Licence: Sask. 123-771.

ALBERTA

—	1	Automobile ran into side of train. Licence: Alta. GY-170.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	3	Auto truck ran into track motor car. Licence not given.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-159867.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-30437.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. 70-109.

Of the 29 accidents at Highway crossings, 21 occurred at unprotected crossings, and 8 at protected crossings. Eighteen occurred after sunrise and eleven after sunset.

OTTAWA, Ontario, October 1, 1954.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, SEPTEMBER, 1954

Railway Accidents	188	Killed	10	Injured	255
Level Crossing Accidents	39	Killed	11	Injured	47
Total	227		21		302

	Killed	*Injured*
Passengers	—	86
Employees	4	151
Others	17	65
Total	21	302

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

NEW BRUNSWICK

Killed	*Injured*	
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 67-277.

QUEBEC

1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile ran into track motor car. Licence: Que. T-16343.
2	2	Automobile ran into side of train. Licence: Que. 62-677.
—	1	Automobile ran into track motor car. Licence: Que. 415-053.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-57044.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile ran into side of train. Licence: Que. T-172.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 83-440.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-97576.

ONTARIO

Killed	*Injured*	
—	1	Milk wagon was driven onto crossing in front of approaching train and was struck.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	3	Automobile ran into side of train. Licence: Ont. LD-801.
1	2	G.M.C. truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 45424.
—	2	Automobile ran into side of train. Licence: Ont. BV-510.
1	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 3958-A.
—	2	Automobile ran into side of train. Licence: Ont. DV-731.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-73142.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 097475.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 2549-A.
—	1	Turnapull scraper drove onto crossing in front of approaching train and was struck.
—	1	Automobile stalled on crossing and was struck by train. Licence: Ont. R-7705.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 4774-A.
—	1	Auto truck ran into side of train. Licence: Ont. C-8103.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.

MANITOBA

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 4-C-807.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 7-B-129.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 2-G-890.
—	1	Automobile ran into side of train. Licence: Man. 1-B-23.

SASKATCHEWAN

—	1	Milk wagon driven onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 81365.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-20960.

ALBERTA

—	1	Automobile ran into side of train. Licence not given.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. XJ-922.
3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. LT-670.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. CZ-503.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. PD-13650.

BRITISH COLUMBIA

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. W-6349.

Of the 39 accidents at Highway Crossings, 29 occurred at unprotected crossings, and 10 at protected crossings. Twenty-one occurred after sunrise and eighteen after sunset.

OTTAWA, Ont., November 19, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84910 Nov. 5—Approving proposed location of warehouse, etc., of Imperial Oil Limited near C.N.R. tracks at Elrose, Saskatchewan.

84911 Nov. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Alliance, Alberta.

84912 Nov. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Punnichy, Saskatchewan.

84913 Nov. 5—Approving Service Station Contract between the Bell Telephone Company of Canada and the Ontario Department of Lands and Forests.

84914 Nov. 5—Dismissing the application of Gypsum Lime and Alabastine, Canada Limited, for an adjustment of the rate on Gypsum Rock in carloads from Gypsumville, Manitoba, to St. James, Manitoba.

84915 Nov. 5—Permitting the removal of slow order at C.N.R. crossing east of station at Portneuf, Quebec.

84916 Nov. 5—Permitting the removal of slow order at C.N.R. crossing east of station at Clanwilliam, Manitoba.

84917 Nov. 5—Permitting the removal of slow order at C.P.R. crossing of Highway No. 4, mileage 74·2, Bradenbury Subdivision, Manitoba.

84918 Nov. 5—Permitting the removal of slow order at C.N.R. crossing of highway near switch at Charbonneau, Alberta.

84919 Nov. 5—Permitting the removal of slow order at Esquimalt and Nanaimo Railway crossing of highway near Wellington, British Columbia.

84920 Nov. 5—Permitting the removal of slow order at C.P.R. crossing of Kennedy Road in the Municipal District of Pitt Meadows, British Columbia.

84921 Nov. 8—Authorizing the C.N.R. to make changes in the operating circuits for the protection installed at the crossing of Metropolitan Boulevard, Montreal-Ste. Anne's Highway, Montreal West, Quebec.

84922 Nov. 8—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Department of Public Works, Government of Canada.

84923 Nov. 8—In the matter of the application of the Kingston Suppliers, Division of Macdonalds Consolidated Limited, Vancouver, B.C., for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 62.

84924 Nov. 8—In the matter of filing of tariffs by the C.P.R., Communications Department.

84925 Nov. 8—In the matter of filing of tariffs by the Canadian National Telegraph Company.

84926 Nov. 8—Authorizing the City of Winnipeg, Manitoba, to widen Ellice Avenue where it crosses the C.P.R. and the Midland Railway Company of Manitoba, in the City of Winnipeg, Manitoba.

84927 Nov. 8—Permitting the removal of slow order at C.P.R. crossing at mileage 2·3, Wilkie Subdivision, Saskatchewan.

84928 Nov. 8—In the matter of approval of plan submitted by the C.P.R. on behalf of Union Oil Company of California, for approval of location for loading tank cars from tank trucks at Milk River, Alberta.

84929 Nov. 8—Approving proposed location of pipe lines, etc., of Peterborough Utilities Commission near C.P.R. tracks at Peterborough, Ontario.

84930 Nov. 8—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Hearst, Ontario.

84931 Nov. 8—Permitting the removal of slow order at crossing of C.P.R. and Dundas Street, Islington, Ontario.

84932 Nov. 8—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

84933 Nov. 8—Approving proposed location of storage tanks, etc., of Chrysler Corporation of Canada Limited near tracks of The Chesapeake & Ohio Railway Company at Windsor, Ontario.

84934 Nov. 10—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Nipigon, Ontario.

84935 Nov. 10—Approving proposed location of storage tanks, etc., of North Star Oil Limited near C.N.R. tracks at Sifton, Manitoba.

84936 Nov. 10—Approving proposed location of storage tanks, etc., of the Department of National Defence for Canada (R.C.N.) near C.N.R. tracks at Longueuil, Quebec.

84937 Nov. 10—Permitting the removal of slow order at C.P.R. crossing of St. Patrick Street, Magog, Quebec.

84938 Nov. 12—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 11, west of station at Jellicoe, Ontario.

84939 Nov. 12—Permitting the removal of slow order at C.P.R. crossing of Main Street east of station at Clive, Alberta.

84940 Nov. 12—Permitting the removal of slow order at C.P.R. crossing of Highway No. 17A being the first crossing east of station at Kaministiquia, Ontario.

84941 Nov. 12—Permitting the removal of slow order at Niagara, St. Catharines and Toronto Railway crossing of College Street in the Village of Fonthill, Ontario.

84942 Nov. 12—Permitting the removal of slow order at C.N.R. crossing of Twin City Road east of the east switch at Twin City, Ontario.

84943 Nov. 12—Permitting the removal of slow order at C.N.R. crossing of Main Street east of station at Amos, Quebec.

84944 Nov. 12—In the matter of the application of the Canadian Freight Association for approval of an agreed charge, dated September 28, 1954.

84945 Nov. 12—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 59.

84946 Nov. 12—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Meadows Station, Manitoba.

84947 Nov. 12—Approving operation of the C.P.R. trains over the private siding of Hussmann Refrigerator Company Limited, Brantford, Ontario.

84948 Nov. 12—In the matter of the application of the Bell Telephone Company of Canada for leave to exercise its statutory powers to construct its lines of telephone upon, along and over a certain public highway in the Township of Chatham, County of Kent, Ontario.

84949 Nov. 12—In the matter of the application of the Bell Telephone Company of Canada for an order for leave to exercise its statutory powers to construct, erect and maintain its lines of telephone over, under along, upon and across certain public highways in the County of Kent, Ontario.

84950 Nov. 12—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 71.

84951 Nov. 12—Authorizing the C.P.R. to operate under the overhead bridge at mileage 0·5, Timiskaming Subdivision, Ontario.

84952 Nov. 12—In the matter of the application of the Bell Telephone Company for leave to exercise its statutory powers to construct its lines of telephone upon, along, over and across certain public highways in the Corporation of the Township of Harwich, County of Kent, Ontario.

84953 Nov. 12—Authorizing the Algoma Central and Hudson Bay Railway Company to operate the bridge over the Agwa River, Ontario, at mileage 131·4, Soo Subdivision.

84954 Nov. 12—Authorizing the Algoma Central and Hudson Bay Railway Company to operate the bridge over the Agwa River, Ontario, at mileage 125·69, Soo Subdivision.

84955 Nov. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Wakaw, Saskatchewan.

84956 Nov. 15—Approving proposed location of warehouse, etc., of Standard Oil Company of British Columbia Limited near C.N.R. tracks at McBride, British Columbia.

84957 Nov. 15—In the matter of the application of the C.N.R. for approval of plan showing the interlocking as installed at North Edmonton, Province of Alberta.

84958 Nov. 15—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Dunsford Telephone, Light & Power Co-Operative Association Limited.

84959 Nov. 15—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Sprague Telephone System.

84960 Nov. 15—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Fenella Rural Telephone Company Limited.

84961 Nov. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Domremy, Saskatchewan.

84962 Nov. 15—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Commissioners for the telephone system of the Municipality of the Township of Moore.

84963 Nov. 15—Relieving the C.P.R. from erecting and maintaining cattle guards at certain highway crossings on its Colony Subdivision, Saskatchewan.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1954.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII JANUARY 1, 1955 No. 19

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Au sujet de la demande de la compagnie de Téléphone Bell du Canada, datée le 29 octobre 1953, demandant l'émission d'une ordonnance lui permettant de constuire ses lignes téléphoniques sur les côtés, à travers et sous certains chemins dans le village de Maskinongé.

Dossier nº 44484:17

Devant:

ARMAND SYLVESTRE, C.R., *Commissaire en chef suppléant.*

H. B. CHASE, C.B.E., *Commissaire.*

Comparutions:

P. C. VENNE, C.R., pour La Compagnie de Téléphone Bell du Canada.

RÉAL LEGRIS, pour Le village de Maskinongé, P.Q.

JUGEMENT

A. SYLVESTRE, C.R., Commissaire en chef suppléant:

Par sa requête en date du 29 octobre 1953, la Cie Bell demande qu'une ordonnance, basée sur l'article 378(3) et autres de la Loi des chemins de fer, soit émise lui permettant d'employer les rues de l'opposante comme suit:

a) Les tubes souterrains et les câbles aériens et souterrains, y compris tous bornes, accessoires et autres installations nécessaires, requis maintenant ou plus tard, sur les rues Bélair et Clément, dans ledit village de Maskinongé, aux endroits indiqués sur le plan nº 101, en date du 8 avril 1953, dont copie est jointe à la présente comme Exhibit nº 1; et

b) Une ancre sur la rue Bélair, et deux ancres et deux cent quatre-vingt-cinq pieds, plus ou moins, de câble sur la rue Clément, le tout fixé aux poteaux de la compagnie Shawinigan Water and Power, ainsi que tous haubans, fils, bornes, accessoires et autres installations nécessaires, requis maintenant ou plus tard en rapport avec cet ouvrage aux endroits indiqués sur le plan nº 1 revisé le 3 août 1953, dont copie est jointe à la présente comme Exhibit nº 2.

L'opposante s'objecte à donner son consentement pour plusieurs raisons alléguées dans son opposition, alléguant qu'à sa séance du 6 mai 1953, elle a offert à la Bell de faire des conventions écrites avec elle préalablement à l'octroi d'un libre passage pour ses lignes dans les rues Bélair et Clément et que l'applicante a refusé, insistant sur l'obtention d'un passage gratuit et sans conditions.

Les parties n'ayant pu s'entendre nous nous sommes rendus à Trois-Rivières, le 20 octobre courant, pour entendre cette cause.

Dès son ouverture, j'ai demandé au procureur de l'opposante quelles étaient les raisons pour lesquelles on s'objectait à la requête et il m'a répondu qu'il y en avait deux. La première était que la municipalité ne voulait pas que de nouveaux poteaux soient plantés dans ses rues. Le procureur de la Bell s'est levé et a assuré le conseil du village que de nouveaux poteaux ne seraient pas exigés. Avant l'audition, il y a eu plusieurs entrevues entre les parties et je me demande s'il était nécessaire de mobiliser notre Commission et de l'obliger de se déplacer pour une réponse que l'on pouvait donner facilement si la Bell avait montré dans ses négociations plus d'esprit de coopération et une compréhension plus sympathique des relations avec le public que ce qu'il apparaît dans la présente cause. La municipalité s'est déclarée satisfaite de la réponse de la Cie.

La deuxième objection était que le conseil s'objectait à la pose d'une ancre sur un poteau de la rue Bélair et de deux ancres sur deux poteaux de la rue Clément, et le maire nous a déclaré qu'en outre de l'aspect disgracieux de ces ancres, elles sont une nuisance constante spécialement l'hiver quand il s'agit d'enlever la neige, mais il y a plus, un M. Gérard Gagnon demeurant sur la rue Bélair possède une jolie propriété et le poteau est situé sur le coin de sa maison avec le résultat que si une ancre y est installée ce câble coupera en diagonale ses deux chassis obstruant sa vue et dépréciant la valeur de sa propriété.

La compagnie nous dit qu'il lui faut poser ces ancres par suite de la tension exercée sur les poteaux par les câbles téléphoniques. Nous avons alors demandé à l'ingénieur de la Cie s'il était possible d'employer des poteaux de béton ne nécessitant pas l'emploi d'ancres et celui-ci nous a dit que sans avoir étudié l'affaire à fond il croyait que la chose était possible. Le procureur de la Bell s'est alors empressé de dire qu'il s'objectait à la création de tout précédent et doutait que des poteaux de fer puissent être employés. Il est à remarquer que les trois poteaux en question n'appartiennent pas à la Bell mais à la Shawinigan Water and Power avec qui la Bell a des arrangements pour s'en servir, et si ces poteaux de bois étaient remplacés par des poteaux de fer il faudrait que la Bell fasse une nouvelle entente avec la Shawinigan.

Au sujet des poteaux de fer, en nous en retournant à la gare à Trois-Rivières sur la rue y faisant face, nous avons vu une longue suite de poteaux en fer, des hommes y travaillaient et se servaient tout simplement d'une échelle pour atteindre une certaine hauteur sur le poteau, et il n'y avait aucune ancre.

On nous a fourni une liste des noms de ceux qui attendent la confection de ces travaux avant d'avoir le téléphone. Ces gens attendent depuis plus d'un an et vont attendre encore bien des mois avant de jouir d'un service qui est indispensable et essentiel de nos jours, et ce délai n'est certainement pas de

nature à leur plaire. La présente requête est accordée et une ordonnance sera émise à cet effet, mais je suggère humblement que si la Bell a le moindre respect pour l'esthétique, elle emploiera des poteaux de fer surtout devant la propriété de M. Gérard Gagnon ou déplacera le présent poteau en bois, comme il l'a suggéré.

ARMAND SYLVESTRE

OTTAWA, le ler novembre 1954.

J'agrée:

H. B. CHASE

(TRANSLATION)

In the matter of the application of The Bell Telephone Company of Canada dated October 29, 1953, for an order for leave to construct telephone lines along the sides of and across or under certain highways in the Village of Maskinonge.

File No. 44484·17

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

P. C. VENNE, Q.C., for The Bell Telephone Company of Canada.
REAL LEGRIS, for The Village of Maskinonge, P.Q.

JUDGMENT

A. SYLVESTRE, Q.C., Deputy Chief Commissioner:

In its application dated October 29, 1953, the Bell Telephone Company requests that an Order, based on Section 378(3) and others of the Railway Act, be issued authorizing it to use the streets of the opponent as follows:

(*a*) Underground conduit and underground and aerial cable, with all necessary terminals, attachments and other facilities now or hereafter required on Belair Street and on Clement Street, in the said Village of Maskinonge, in the locations shown on Plan No. 101, dated April 8, 1953, a copy of which is attached hereto as Exhibit No. 1; and

(*b*) One anchor on Belair Street, and two anchors and two hundred and eighty-five feet, more or less, of cable on Clement Street, all attached to poles of the Shawinigan Water and Power Company, together with all necessary guys, wires, terminals, attachments and other facilities now or hereafter required in connection therewith, in the locations shown on Plan No. 1, Rev., dated August 3, 1953, a copy of which is attached hereto as Exhibit No. 2.

The opponent objects to giving its consent for several reasons alleged in its opposition, pleading that at its sitting of May 6, 1953, offer was made to the Bell Telephone Company to enter into agreements in writing with the Municipality prior to the granting of a clear passage for the Company's lines in Belair and Clement Streets, and that the applicant refused, insisting on a free and unconditional passage.

The parties having been unable to agree we went to Three Rivers, on the October 20th instant to hear this case.

At the beginning of the hearing, I asked the attorney for the contestant what were the reasons for objecting to the application and he replied that there were two. The first was that the Municipality did not want any new poles to be erected in its streets. The attorney for the Bell Telephone Company rose and assured the Village Council that new poles would not be required. Before the hearing, the parties had several interviews and I wonder if it was necessary to mobilize our Board and compel it to travel for a reply that could have been given easily if the Bell Telephone Company had acted in a more co-operative spirit and with a more sympathetic understanding of public relations than seems to have been displayed by them in this matter. The Municipality declared that it was satisfied with the Company's reply.

The second objection was that the Council objected to the installation of an anchor on a pole on Belair Street and of two anchors on two poles on Clement Street, and the Mayor stated that in addition to the uncouth appearance of these anchors, they were a constant nuisance especially in winter when the snow has to be removed, but moreover a Mr. Gerard Gagnon, who resides on Belair Street owns a fine property and the pole is located at the corner of his house with the result that if an anchor is installed on it the cable will cut across two windows of his house diagonally, obstructing the view and depreciating the value of his property.

The Company states that it is necessary to install the said anchors because of the tension exerted on the poles by the telephone cables. We then asked the Company's engineer if it were possible to use concrete poles which would not require the use of anchors and he stated that without having looked into the matter thoroughly he thought that it was possible. The attorney for the Bell Telephone Company then hastened to say that he objected to the creation of any precedent and doubted if iron poles could be used. It should be noted that the three poles in question do not belong to the Bell Telephone Company but to the Shawinigan Water and Power with which the Bell Telephone Company made arrangements to use them, and if the said wooden poles were replaced by iron poles, the Bell Telephone Company would have to reach a new understanding with the Shawinigan Company.

As regards iron poles, on our way to the Three Rivers Station, we saw a long row of iron poles, on the street opposite the Station; men were working on the poles and simply used a ladder to reach a certain height on the poles, and there was no anchor.

We were supplied with a list of the names of those who are waiting for the work to be performed to have a telephone. These people have been waiting for more than a year and will wait many months more before enjoying a service that is essential nowadays, and this delay will certainly not please them. The present application is granted and an Order will be issued to that effect, but I humbly suggest that if the Bell Telephone Company is the least mindful of aesthetics, it will use iron poles, especially in front of Mr. Gerard Gagnon's property or will relocate the present wooden pole as he himself suggested.

ARMAND SYLVESTRE.

OTTAWA, November 1, 1954.

I concur:

H. B. CHASE.

GENERAL ORDER No. 803

In the matter of General Order No. 3, dated July 3, 1907, as amended by General Orders Nos. 10, 417 and 446, dated respectively, May 5, 1908, May 18, 1925 and July 21, 1927, requiring Railway Companies subject to the jurisdiction of the Board to equip passenger coaches with fire extinguishers:

Case No. 1858

WEDNESDAY, the 10th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that every Railway Company subject to the jurisdiction of the Board shall equip each passenger train car built new or rebuilt subsequent to the effective date of this Order, excluding cars not normally occupied by passengers, railway or other personnel, with at least one unit of first-aid fire-fighting appliance as defined for quantity but not type by the National Fire Protection Association in Pamphlet No. 10 of May, 1953, "First Aid Fire Appliances".

Extinguishers must be of a type approved and bearing label of the Underwriters' Laboratories.

Extinguishers shall be maintained in good operating condition in accordance with the requirements of National Fire Protection Association Pamphlet No. 10, "First Aid Fire Appliances".

Extinguishers shall be placed in convenient and accessible locations where they are readily available. Instructions as to the operation of fire extinguishers must be displayed and train service personnel given practical instruction in the use of this equipment.

That General Orders Nos. 3, 10, 417 and 446 dated, respectively July 3, 1907, May 5, 1908, May 18, 1925 and July 21, 1927, be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

Application of Gypsum, Lime and Alabastine, Canada, Limited, re rate on Gypsum Rock from Gypsumville to St. James, Manitoba.

File 47487

HEARD at Ottawa, May 13, 1954.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

J. HANLEY, for Gypsum, Lime and Alabastine, Canada, Limited.
J. W. G. MACDOUGALL, for Canadian National Railways.

JUDGMENT

WARDROPE, A.C.C.:

The applicant, Gypsum, Lime and Alabastine, Canada, Limited, under Section 328 and other relevant sections of the Railway Act, alleges that the rate charged for the movement of gypsum rock, carloads, by the Canadian National Railways from Gypsumville, Man., to St. James, Man., is unreasonable by comparison with the rate charged on crushed rock from Steep Rock, Man., to Fort Whyte, Man., by the same railway. It requests that we direct the railway to adjust the Gypsum Rock rate to reflect the relationship maintained over a long period of years with the rate on the crushed rock.

Gypsumville is situated at the northern end of the Oak Point Subdivision of the railway and the distance therefrom to St. James is 155 miles. Steep Rock is at the end of the Steep Rock Subdivision 12·1 miles from the junction with the Oak Point Subdivision. The distance from Steep Rock to Fort Whyte is 145 miles. Between Steep Rock Junction and St. James, 127·3 miles, both types of rock move over the same line in the same direction.

The gypsum rock from Gypsumville moves in general service gondola cars, and the crushed rock from Steep Rock moves in regularly assigned hopper or ore cars. The latter are shorter in length and an examination of waybills for actual movements, taken from our records respecting our Waybill Analysis, indicates that the average weight per car of the Gypsumville movement approximates 52 tons and that the Steep Rock movement approximates 44 tons. In both cases the tariff requirements as to minimum carload weight are the same.

Exhibit No. 1 submitted in evidence at the hearing by the railway sets out the history of the rates on the two types of rock. Briefly, it shows that the rate on gypsum rock was first established at 7¢ per 100 lbs., from Gypsumville to Winnipeg in 1911 and extended to apply to St. James in 1913. On November 4, 1913 the same rate was established on crushed rock from Steep Rock to Fort Whyte. On August 1, 1914 the gypsum rock rate was reduced to 6½¢ and the rate on crushed rock to 6¢.

Following the postwar I general rate increases, the relationship in rates at January 1, 1921 was that the gypsum rock rate had become 10¢ and the crushed rock rate 9¢. Effective March 14, 1921 a voluntary reduction was made by the railway making the gypsum rock rate 7½¢ and the crushed rock rate 7¢ thereby restoring the spread of ½¢ per 100 lbs. which had been accomplished previously on August 1, 1914.

No change occurred in respect of these rates until April 8, 1948 on which date the railway applied the 21 per cent increase authorized by our Order No. 70425 of March 30, 1948. The rates as then established were 9¢ on the gypsum rock and 8½¢ on the crushed rock, or an increase of 1½¢ per 100 lbs. to each rate.

On May 17, 1948 the railway voluntarily reduced the crushed rock rate to 7¢ thereby eliminating the 21 per cent increase. The said rate has not been subsequently altered. The exhibit shows that in respect of the gypsum rock rate the full 21 per cent increase remained in effect and that the rate has been subsequently increased by 20%, 17%, 9%, and 7%, or a total of one hundred per cent since April 7, 1948.

The exhibit shows that the rate of 7¢ on crushed rock is the same as it was at the time of its inception in 1913, whereas the gypsum rock rate which is now 15¢ is 8¢ higher than it was at the time of its inception, or 114% higher.

Gypsum rock is the raw material for the manufacture of plaster. The crushed rock from Steep Rock is limestone used for the manufacture of cement. A small quantity of gypsum rock is used in the manufacture of cement, stated to be approximately 2 or 3 per cent.

It may be here observed that the Dominion Bureau of Statistics' publication, entitled "The Cement Manufacturing Industry, 1953" shows that the output of cement in Canada in 1953 was 3,922,235 tons, and that of the materials used in cement plants, limestone was 5,330,778 tons, and gypsum 199,743 tons. On this showing it would seem to require 1·36 tons of limestone to produce one ton of cement, whereas the quantity of gypsum per ton of cement is about 5 per cent.

Witness Armstrong for the applicant described the method of producing gypsum rock as an open face quarry where, after stripping the earth from the top of the deposit, the rock is drilled and blasted and then loaded by steam shovel into railway cars for transportation to destination. He stated that he had seen the operation at Steep Rock where the procedure as to stripping and blasting was similar, but that the broken rock was loaded into trucks and hauled to a crusher where it is reduced to sizes ranging from 1 to 2 inches, elevated into large bins from which the crushed rock is then loaded into railway cars, whereas the gypsum rock was not crushed or otherwise processed until it reached destination.

Mr. Armstrong expressed the opinion, based on experience, that "When you arrive at what they are worth to you as an industry or someone purchasing from you there would be little or any difference in value between the two rocks on cars to a potential customer."

Exhibit No. 4 filed by the railway shows the comparable volume of movement of both types of rock as follows:

	Gypsum Rock (tons)	Crushed Rock (tons)
1951	57,959	328,180
1952	53,568	311,791
1953	78,384	336,120
1954 (Jan.-Mar.)	442	112,606

showing a substantially heavier volume of movement of the crushed rock than for gypsum. A witness for the railway stated that the crushed rock moved in full train-loads averaging 5·4 movements per week whereas the gypsum movement was by way-freight twice weekly. The difference in the movements reflects some difference in the cost of providing the service, which the witness stated amounted to about twenty per cent less for the crushed rock.

The applicant placed in the record the yearly tonnages of gypsum rock, as follows:

1939	9,954	1940	11,432
1941	14,946	1942	16,066
1943	18,534	1944	19,695
1945	22,047	1946	34,257
1947	36,154	1948	36,717
1949	36,870	1950	59,213
1951	58,965	1952	54,937
1953	73,182		

While there is some difference between the tonnage shipped as shown by railway exhibit No. 4 and those placed in the record by the applicant, the difference does not materially affect the consideration of the application as the trend is similar.

Insofar as the tonnage figures indicate the trend of the applicant's business the following extract from the evidence is informative:

"Q. (Mr. Macdougall) Previous to 1951 I have not the figures but the 1951 figure was 57,000 tons. Would the figures previous to that be of the same order or would they be less than that?

A. (Mr. Armstrong) They would be gradually reducing back to 1941.

Q. Does that mean that the production in your plant has been increasing those years since the 40's?

A. There has been a gradual increase each year but the only definite increase was the erection of a new plant in 1951 which made a big jump in our board plant production.

Q. Is that in the Winnipeg area?

A. Right in the same plant, on the same property.

Q. And its raw material is drawn from the same Gypsumville quarry and that would indicate the difference in your tonnage figures?—A. Yes.

Q. Now, I presume that the expansion that took place in your plant in 1951 was as a result of the fact that there was an increased market for your product and therefore you had reason to make more because you could market more, is that correct?

A. Correct.

Q. And it is correct to say that your marketing has been increasing and your sales have been increasing and your business has been increasing in recent years in any case?—A. Correct.

Q. I suppose these figures would indicate that today, generally speaking, your business is perhaps at its highest peak?

A. I believe the records show that last year was the largest year for our company."

(Transcript pp. 3332-3)

In respect of the increase in business enjoyed by the applicant Witness Armstrong expressed the opinion that while the whole construction industry had experienced increased business, he considered the cement plant at Fort Whyte would not have experienced a comparable increase due to lack of capacity.

Mr. Armstrong also stated that the product manufactured from gypsum rock, namely plaster and plaster board, did not compete with the cement manufactured from the crushed rock; and that the applicant's chief competitor is located in Winnipeg, obtaining its gypsum rock from Amaranth, Manitoba, for manufacture into similar products.

The position taken by the railway can be summarized to the effect that the rate on crushed rock for manufacture of cement is maintained at its present level solely to promote the manufacture of cement at Fort Whyte and thereby assure to the railway a share in the outward movement of the cement; that the cement plant at Fort Whyte is the only plant of its kind in Canada which is separated from its source of raw rock; and that negotiations conducted between the railway and the cement company looking to an increase in the crushed rock rate had shown the necessity of maintaining the present rate.

It was stated that the cement company has proceeded with plans to expand the Fort Whyte plant and, based upon such negotiations, the railway had concluded that a rate increase on the rock would eliminate the expansion and would curtail production. It contended that there is no adverse effect upon other cement manufacturers as the only other plant on the Prairies is at Exshaw, Alberta, which is operated by the same company. The capacity of the Fort Whyte plant was stated to be 1·6 million barrels per year and the expansion planned would increase this by 1 million, whereas the Exshaw capacity is now 2·8 million.

The railway asserted that while the present rate on crushed rock is compensatory it leaves a very small margin of profit, and that the only justification for maintaining the rate is that the railway shares in the haul on the product thereof at higher rates. With the expanded capacity the railway anticipates a wider field of distribution in which it expects to share. On the other hand the railway believes that a rate increase would curtail production by fifty per cent.

Witness Bell for the railway stated that the gypsum rock rates in the Manitoba area are generally based on the crushed stone level, whereas gypsum rock is more akin to rubble stone which takes a higher basis of rates than crushed stone. He contended that the Gypsumville rate is reasonable because it is related to all other crushed rock rates in western Canada, but it would not be reasonable to compare it with the rate from Steep Rock which was made to meet a specific and peculiar purpose and disregard all the other rock rates.

Mr. Bell stated that the negotiations between the railway and the cement company had been conducted at executive level; that the railway had accepted the explanation of the cement company and believed it was a true picture of the situation. He also stated that it required 500 pounds of limestone to make one barrel of cement (300 lbs.), and that the costs of producing cement at Fort Whyte were 50 cents per barrel higher than at Exshaw which he attributed to the fact that the Fort Whyte plant was not astride the quarry.

Counsel for the railway argued that the applicant's case is that the Gypsumville rate is higher than the rate from Steep Rock; that both commodities are rock of the same general value; but that the railway contends the Gypsum rock is the more valuable. He asserts that the test of reasonableness is whether the rate of 15¢ is too high for the class and value of the commodity; that the

proper comparison is with other similar rock for the same purpose; and that the applicant refers only to the Steep Rock rate, ignoring that other shippers with whom the applicant competes are in a similar position.

He also submitted that the Steep Rock movement is a peculiar one, based on factors not obtaining elsewhere; that the increased cost of production at Fort Whyte creates this situation; and that the Board should regard it as a unique situation. He also asserted that the applicant has shown his business has not been affected by the rates charged; that such rates are reasonable per se; but that the important factor in the determination of reasonable rates is the value of the service in what the traffic can pay. He contends that the applicant is not entitled to measure his rate by conditions which do not obtain in respect of his movement, even though the external conditions are similar to a degree.

I think the foregoing summarizes sufficiently the case as presented to us. I may say that the whole record has been carefully studied and the omission of any part of the evidence and argument is not indicative of failure to apprehend all that has been adduced. I should also state that, in pursuance of our general powers, we have called upon the railway to supply us with data setting forth the comparative out-of-pocket costs of performing both services. While I do not intend to set out such data herein, because it is privileged information, I shall have something to say later concerning what has been thus developed.

The case in itself is relatively simple. The applicant has admitted that its business has not been affected by the difference in rates which has developed since 1948; in fact the witness for the applicant stated at page 3345 of the Transcript "there is nothing in our brief to suggest that this rate has affected our business good or bad."

The applicant's case therefore appears to rest entirely on a comparison of rates, or in other words the feeling that for a comparable commodity, moving under substantially similar circumstances over the same line of railway, there should be equality of rate. In this respect the applicant's case has the appearance of support from the wording of subsections (1) and (2) of Section 317 of the Railway Act, reading:

> "(1) All tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.
>
> "(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway."

It has been shown that the rate charged on the applicant's raw material is the same, or on the same basis as charged to other users of the same material. It has been shown also that the only reason why the crushed rock movement from Steep Rock to Fort Whyte has not been subjected to the same treatment is a condition which does not obtain in connection with the business of the applicant, and one that is maintained through necessity to promote the railway's interest in the haul of the outward product.

The evidence also is that the applicant had not suffered any curtailment of his business by the maintenance of the rate from Steep Rock, but frankly stated that while his business had increased that of the cement company at Fort Whyte had not experienced similar increase due to lack of capacity. The Fort Whyte plant is in the process of expansion, but the railway maintains that its negotiations with the company developed that such expansion could not be made if the rate from Steep Rock was advanced, and that such an advance would curtail present production.

It is, I believe, unfortunate that no representative of the cement company appeared before us to verify the railway statements. I believe, however, that the railway has acted in good faith and in accordance with its best judgment in evaluating the position of the company and in consideration of the railways desire to secure a reasonable share of the haul on the outbound product.

In my opinion, as long as this objective can be accomplished without casting any added burden upon other traffic the peculiar circumstances involved distinguish the rate treatment on the raw material. I must say that the information we have received as to out-of-pocket costs indicates that little if any of the revenue from the Steep Rock traffic is available for contribution to overhead expenses, whereas the rate from Gypsumville does appear to stand its share of the normal revenue requirements of the railway.

It seems to follow that any further increase in the expense of operating the railway would mean that present Steep Rock rates could not be maintained without casting a burden on other traffic, consequently it must be observed that the Steep Rock rate is now probably at its nadir.

The broad responsibility of this Board is to see that reasonable rates are charged. The determination of what constitutes a reasonable rate has been the subject of comment by the Board on many previous occasions. In "Re British Columbia Telephone Co., increase in rates and charges", 66 C.R.T.C. 7 at p. 54, we said "Factors as to what constitute a reasonable rate are never found in a precise formula and to a large extent represent the exercise of good judgment." In "Granby Consolidated Mining, Smelting & Power Co. v. C.P.R.", 64 C.R.T.C. 243, at p. 246 there is a quotation from a previous case reading— "The principle of charging what the traffic will bear is one of the factors which has been recognized in connection with rate regulation. At the same time, it has not been accepted as the only factor."

In re "Domestic Grain Rates", 69 C.R.T.C. 273, at p. 284, we said "The determination of what constitutes a reasonable rate however is an empirical function for which no formula has been found, nor is it defined by the Statute. There are many considerations which must be taken into account.", and at p. 285 we said "One of the considerations in applying tests of reasonableness to freight rates on a particular commodity is the rate charged, or the increase in rate, which exists on other commodities."

In re "Canadian Airways Ltd.", 52 C.R.T.C. 321, at p. 335, we said: "Concerning the reasonablenesss of the fare in question our consideration must be empirical to a large extent. The test is whether the toll charged will move the traffic or whether it is less than reasonable in that it would place an undue burden upon other traffic, persons or localities."

In "Cadwell Sand and Gravel Co. v. C.F.A.", 14 C.R.C. 172, at p. 174 we said: "It is a well-established principle of rate regulation that where a business has been built up relying upon a particular rate adjustment, an increase in this rate adjustment should not be made without amply sufficient reasons."

Apart from these and other expressions of a similar character in the Board's formal decisions, there is a statement expressed in correspondence concerning the difference between domestic and export rates which seems apt in the present case, reading as follows:

> "You refer to the substantial difference in the freight rate 'when no additional service is supplied by the railroad'. If there was this rigidity in the freight rate structure, it would not permit of the publication of export rates and competitive rates below the normal rate between the same points. It is a general condition throughout the rate structure in this and other countries that the carriers for similar transportation service

obtain greater revenue in some cases than in others. The whole rate structure is honeycombed with rates that are an exception to any principle of equality in earning for similar transportation service. This condition has always existed, has been recognized and approved by all rate regulating tribunals and is not contrary to law. Without such a condition, the business of the country could not develop and flourish. These variations in rates are necessary to develop traffic, to enable its free movement, and to meet market, water and rail competition." (File 43488, June 16, 1943.)

Reverting now to the provisions of Section 317 of the Railway Act, as previously cited herein. The requirement therein that tolls be charged equally in "respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route," are particularly apt in the present instances inasmuch as the two commodities have the same or similar characteristics from a transportation standpoint, move in like kind of cars, and pass over the same line or route, but such requirement is tempered by the words "under substantially similar circumstances and conditions".

The circumstances and conditions which obtain in this case are dissimilar to the extent that one movement is to a plaster manufacturer and the other to a cement manufacturer, neither of which competes with the other. It has been demonstrated to my satisfaction that the rate to the cement plant is held down by the stark necessities of obtaining raw material to make possible the production of cement, and that an increase in cost of obtaining the raw material would tend to dry up the production and likewise the traffic of the railway. On the other hand the rate on the raw material to the plaster manufacturer has not brought about any diminution of production by being subjected to only the general increases which the Board found necessary to allow since 1948; on the contrary, the evidence is that the applicant's production has expanded.

The fact that this condition has been achieved leads me to the conclusion that the rate assailed is not unreasonable per se, and that if we were to assess the reasonableness of the rate only by comparison with the Steep Rock rate we would do grave injustice to the railway and possibly also to an industry not related to that of the applicant.

It has been recognized that at times the railway must establish rates on raw materials inbound to promote the production and movement of the finished product. In "Hudson Bay Mining Co. v. G.N.Rly", 16 C.R.C. 254, at p. 256 we said: "The C.P.R. in giving a low rate basis on the ore moving to the smelter at Trail, is assured thereby that it will obtain a higher return on the more valuable refined product outbound from the smelter." There follows reference to a previous case in which it was recognized that "it is in the discretion of the railway to take into consideration not only the rate on the inbound raw material, but also the rate on the outbound product." There also follows: "The lower rate which the C.P.R. charges from Nelson to its smelter is in reality an aid to the development of the business of that smelter, and a means whereby the outbound refined product may be increased with a resultant addition to revenue."

I am, therefore, of the opinion that the allegation of unreasonableness in the rate charged the applicant for the movement of gypsum rock from Gypsumville to St. James, Manitoba, predicated, as such allegation is, on the narrow grounds of comparison with the contemporaneous rate on crushed rock from Steep Rock to Fort Whyte, Manitoba, cannot be sustained. I would therefore dismiss the application.

We are somewhat concerned at the low level of revenue provided in respect of the Steep Rock movement. There is, however, nothing before us upon which a finding might be reached as to the absolute necessity of maintaining such rate at its present level. It behooves the railway to seek means whereby this rate may be made to more fully bear its share of the transportation burden. In this I believe the railway has shown it is seized with this necessity.

An order dismissing the application herein will issue.

HUGH WARDROPE.

OTTAWA, November 2, 1954.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 84914

In the matter of the application of Gypsum Lime and Alabastine, Canada, Limited, under section 328 and all other pertinent sections of the Railway Act, for an adjustment of the rate on Gypsum Rock in carloads from Gypsumville, Manitoba, to St. James, Manitoba, this rate being published in item 2195 of C.N.R. Tariff No. W-192-N, C.T.C. No. W-2108, Supplement No. 89:

File No. 47487

FRIDAY, the 5th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held at Ottawa on May 13, 1954, in the presence of Counsel for the Canadian National Railways and a representative of Gypsum Lime and Alabastine, Canada, Limited—

It is ordered that the application be, and it is hereby, dismissed.

A. SYLVESTRE,

Deputy Chief Commissioner.

ORDER No. 85110

In the matter of the application of the Canadian Freight Association, dated October 21, 1954, for approval of Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) 57:

File No. 40994·44

FRIDAY, the 3rd day of December, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) 57 be, and it is hereby, approved and that the date as from which the said Supplement shall be deemed to have become operative is hereby fixed as October 22, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85143

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated November 2, 1954:

File No. 40994·68

THURSDAY, the 9th day of December, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated November 2, 1954, between The Algoma Central and Hudson Bay Railway Company, Canadian National Railways, Canadian Pacific Railway Compny, Ontrio Northland Railway and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited and Shell Oil Company of Canada, Limited on Petroleum Products as specified therein, applicable from marine terminals and pipe line outlets in Ontario to Smooth Rock, Kapuskasing and Hearst, in the Province of Ontario, as specified therein, on file with the Board under file No. 40994·68, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 3rd day of November, 1954, and that it shall continue in effect subject to Condition 6 thereof.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 85146

In the matter of the application of Eastern Townships Produce Ltd., Sherbrooke, Que., and Lincoln Canning Company, St. Catharines, Ont., hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

THURSDAY, the 9th day of December, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their businesses will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods and preserved products from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed for Eastern Townships Produce Ltd. and Lincoln Canning Company the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, OCTOBER, 1954

Railway Accidents	179	Killed	10	Injured	184
Level Crossing Accidents	43	Killed	12	Injured	65
Total	222	Killed	22	Injured	249

	Killed	*Injured*
Passengers	—	31
Employees	2	142
Others	20	76
Total	22	249

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		Nova Scotia
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 60725.
—	3	Automobile ran into side of engine backing over crossing. Licence: Ont. 758-E-6.
		Quebec
2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: P.E.I. 11-761.
—	1	Automobile ran into side of train. Licence not given.
—	1	Track motor car struck by automobile. Licence: Que. 8-115.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8628-K.
—	2	Auto truck ran into side of train backing over crossing. Licence: Que. N-24738.
		Ontario
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. LT-938.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 6933.
—	1	Automobile ran into side of train. Licence: Ont. KU-44.
—	1	Automobile stopped on crossing and struck by train. Licence: Ont. 764-L-2.
2	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. LU-25.
1	3	Automobile ran into side of train. Licence: Ont. DJ-499.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 68778-B.
—	2	Automobile ran into side of train. Licence: Ont. 51-C-63.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-22688.
1	—	Cyclist rode onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KV-903.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KB-379.

Killed	*Injured*	
—	1	Auto truck ran into side of train. Licence: Ont. 26840-C.
—	2	Automobile skidded into side of train. Licence: PA. 6675.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KV-74.
—	2	Track motor car struck by automobile. Licence: Ont. 1-T-829.
—	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 37-193-C.
—	5	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 79810-C.
—	6	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. IR-966.
—	1	Auto truck ran into side of train. Licence: Ont. 79-279-C.
		MANITOBA
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 21-A-17.
—	2	Automobile ran into side of train. Licence: Man. 9-C-14.
		SASKATCHEWAN
—	2	Automobile ran into side of train. Licence: Sask. 121-889.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-86210.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 97903.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-5639.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-4868.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-44506.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-45742.
		ALBERTA
1	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. C-83679.
—	1	Automobile ran into side of train. Licence: Alta. RL-405.
—	1	Motorcycle struck by cars being pushed over crossing. Licence: Alta. 1471.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
		BRITISH COLUMBIA
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-75512.
—	1	Automobile ran into side of train. Licence: B.C. A-8662.

Of the 43 accidents at Highway Crossings, 36 occurred at unprotected crossings, and 7 at protected crossings. Twenty-three occurred after sunrise and twenty after sunset.

OTTAWA, Ontario, December 10, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

84964 Nov. 15—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Wood Mountain Subdivision, Saskatchewan.

84965 Nov. 15—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Fife Lake Subdivision, Saskatchewan.

84966 Nov. 16—Extending the time within which certain protection is to be installed by the Great Northern Railway Company at the crossing of Rupert Street, in the City of Vancouver, British Columbia.

84967 Nov. 16—Authorizing the Local Government District of Lynn Lake, Manitoba, to construct the highway across the C.N.R. near Lynn Lake, Man.

84968 Nov. 16—Authorizing the B.C. Department of Public Works to construct the Trans Canada Highway across the C.P.R. by means of an overhead bridge at mileage 70·85 Shuswap Subdivision, British Columbia.

84969 Nov. 16—Extending the time within which the C.N.R. was required to install certain protection at the crossing of their railway and highway in the Village of Villeneuve, Quebec.

84970 Nov. 17—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways near Yorkton, Saskatchewan.

84971 Nov. 17—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone de Stanford.

84972 Nov. 17—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada, and the Yarmouth Rural Telephone Company Limited.

84973 Nov. 17—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Belmont Telephone Co-operative Association Limited.

84974 Nov. 17—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada, and the Southwold & Dunwich Telephone Association Limited.

84975 Nov. 17—Authorizing the C.P.R. to operate under the overhead bridge at mileage 0·68 Queen's Wharf Branch, in the City of Toronto, Ontario.

84976 Nov. 17—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Outlook Subdivision, Saskatchewan.

84977 Nov. 17—Approving proposed location of storage tanks, etc., of The Empire Coal & Lumber Company Limited near the tracks of the C.P.R. at Sudbury, Ontario.

84978 Nov. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Kaslo, British Columbia.

84979 Nov. 17—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near C.N.R. tracks at St. Brieux, Saskatchewan.

84980 Nov. 17—Approving proposed location of storage tanks, etc., of Deloraine Consumers Co-Operative Limited, near C.P.R. tracks at Deloraine, Manitoba.

84981 Nov. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Beachy, Saskatchewan.

84982 Nov. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Maryfield, Saskatchewan.

84983 Nov. 17—Approving proposed location of pumping facilities of The British American Oil Company Limited near C.N.R. tracks at Spruce Lake, Saskatchewan.

84984 Nov. 17—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated October 5, 1954, on all gas, petroleum, liquefied, carload, in tank cars only.

84985 Nov. 17—Authorizing the Ontario Department of Highways to construct the highway across the Thousand Islands Railway Branch of the C.N.R. by means of an overhead bridge in the Township Front of Leeds and Lansdowne, Ontario.

84986 Nov. 17—In the matter of the application of the British American Oil Company Limited of Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 42 (petroleum products).

84987 Nov. 17—In the matter of the apportionment of the remainder of the cost of the works and of maintenance in connection with the subway authorized to be constructed at the crossing of the C.N.R. and Davenport Road, Toronto, Ontario.

84988 Nov. 18—Authorizing the C.N.R. to construct a passing track across the unopened road between Lots 10 and 11, Con. 13, Twp. of Wood, Ontario.

84989 Nov. 18—Authorizing the C.N.R. to construct a switching lead across 97th Street, in the City of Edmonton, Alberta.

84990 Nov. 18—Approving the clearances at the siding serving Sherritt Gordon Mines Limited, at Lynn Lake, Manitoba.

84991 Nov. 18—Authorizing the C.N.R. to cross the public road with an extension southerly to their passing track at Pefferlaw, Ontario.

84992 Nov. 18—Approving proposed location of storage tanks, etc., near C.N.R. tracks at Kenaston, Saskatchewan.

84993 Nov. 18—Authorizing the C.N.R. to cross the highway between Con. 2 and 3 east of Yonge Street, in the Twp. of North York, at mileage 11·86 Bala Subdivision, and York Mills Road, Township of North York, at mileage 11·20 Bala Subdivision with a siding.

84994 Nov. 18—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

84995 Nov. 18—Authorizing the Sherritt-Gordon Mines, Limited, to construct three pipe lines under the proposed private siding, designated as the New Nickel track, at Lynn Lake, Manitoba.

84996 Nov. 18—In the matter of the application of the Township of Innisfil, Ontario, for an Order amending Order No. 82654 which authorized the improvement of the sight lines at the crossing of the highway and the C.N.R. at mileage 55·5, Newmarket Subdivision.

84997 Nov. 18—Authorizing the C.N.R. to construct a new passing track across the road allowance in the Township of Thorah, north of Beaverton, Ontario.

84998 Nov. 18—In the matter of approval of plan submitted to the C.P.R. by Union Oil Company of California, showing proposed site of loading crude oil into tank cars from tank trucks at Hays, Alberta.

84999 Nov. 18—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Tilley, Alberta.

85000 Nov. 18—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 47, west of station at Stouffville, Ontario.

85001 Nov. 18—Permitting the removal of slow order at crossing of Niagara, St. Catharines and Toronto Railway and Smith Street, in the City of St. Catharines, Ontario.

85002 Nov. 19—Approving appendix to Traffic Agreement between the Bell Telephone Company of Canada and La Corporation de Téléphone de Quebec.

85003 Nov. 19—Authorizing the C.P.R. to construct an industrial spur track at mileage 5·88 MacTier Subdivision, in the Township of North York, Ontario.

85004 Nov. 19—Permitting the removal of slow order at crossing of the highway and C.P.R. near Beverley, Saskatchewan.

85005 Nov. 19—Authorizing the C.N.R. to close Hemaruka, Alberta, as an agency point and appoint a caretaker.

85006 Nov. 19—Approving proposed location of storage tanks, etc., near C.N.R. tracks at Malton, Ontario.

85007 Nov. 19—Permitting the removal of slow order near C.P.R. crossing of highway at mileage 24·5 Maple Creek Subdivision, Saskatchewan.

85008 Nov. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Daysland, Alberta.

85009 Nov. 19—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near C.P.R. tracks at Perdue, Saskatchewan.

85010 Nov. 19—Permitting the removal of slow order at C.P.R. crossing of Scugog Street, Bowmanville, Ontario.

85011 Nov. 19—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at LaSalle, Manitoba.

85012 Nov. 19—Permitting the removal of slow order at C.N.R. crossing of Royal Street, Sorel, Quebec.

85013 Nov. 19—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Fife Lake Subdivision, Saskatchewan.

85014 Nov. 19—Authorizing the Ontario Department of Highways to construct its highway by means of an overhead bridge across the C.N.R., County of Halton, Ontario.

85015 Nov. 19—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) 69. (rates on butter).

85016 Nov. 19—In the matter of the application of Lovell & Christmas (Canada) Limited of Montreal, Quebec, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 69 (butter in carloads).

85017 Nov. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Rose Valley, Saskatchewan.

85018 Nov. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Oliver, British Columbia.

85019—Nov. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Grassy Lake, Alberta.

85020 Nov. 22—Permitting the removal of slow order at crossing of the railway of The Chesapeake & Ohio Railway Company and Howard-Harwich Town Line Road, at Ridgetown, Ontario.

85021 Nov. 22—In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act and the Order of the Board No. 84486 approving tolls published in Tariff C.T.C. No. 1210 filed by the Dominion Atlantic Railway Company.

85022 Nov. 22—Permitting the removal of slow order at C.N.R. crossing of Pine Beach Boulevard, Town of Dorval, Quebec.

85023 Nov. 22—Approving under the Maritime Freight Rates Act tolls published in supplements filed by the Dominion Atlantic Railway Company under sections 3 and 8.

85024 Nov. 22—Approving proposed location of storage tanks, etc., of Western Solvents & Chemicals (Canada) Limited, near the tracks of The Essex Terminal Railway Company at Windsor, Ontario.

85025 Nov. 23—Permitting the removal of slow order at Belleville Road Crossing and the C.N.R. west of the station at Napanee, Ontario.

85026 Nov. 23—Relieving the C.P.R. from erecting cattle guards at certain mileages on its Sherbrooke Subdivision, Quebec.

85027 Nov. 23—Authorizing the C.P.R. to operate under the overhead bridge over its main line and the Magog River, Sherbrooke, Quebec.

85028 Nov. 23—Approving operation of C.N.R. trains, etc., over the private siding serving the National Gypsum (Canada) Limited, at Milford, Nova Scotia.

85029 Nov. 23—Authorizing the C.N.R. to use the bridge over the Irvine River, Ontario, at mileage 49·5 Fergus Subdivision.

85030 Nov. 23—Approving operation of C.P.R. trains, etc., over the private siding to serve Manchester Warehouse Limited and Globelite Batteries Limited, in the City of Calgary, Alberta.

85031 Nov. 23—Authorizing the Ontario Department of Highways to construct the highway across the C.P.R. by means of an overhead bridge in the Township of Tyendinaga, at mileage 82·8 Belleville Subdivision.

85032 Nov. 23—Approving proposed location of refinery facilities of North Star Oil Limited near C.N.R. tracks at St. Boniface, Manitoba.

85033 Nov. 23—In the matter of the application of The William Beatty Company Limited of Parry Sound, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 11 (Petroleum products, carloads).

85034 Nov. 23—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 28 to Agreed Charge C.T.C. (AC) No. 11.

85035 Nov. 23—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85036 Nov. 23—In the matter of the application of the Manitoba Rolling Mill Company Limited, of Winniueg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 71.

85037 Nov. 23—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the C.P.R. under section 8.

85038 Nov. 23—In the matter of the application of The Austin Motor Company (Canada) Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76 (automobile and automobile chassis).

85039 Nov. 23—In the matter of the application of The William Beatty Company Limited, of Parry Sound, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 52 (petroleum products carloads).

85040 Nov. 23—In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) 52.

85041 Nov. 23—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

85042 Nov. 24—Authorizing the City of Regina, Saskatchewan, to construct 25th Avenue across the C.N.R. in the City of Regina, Saskatchewan.

85043 Nov. 24—Approving proposed location of refinery facilities of Canadian Petrofina Limited, near C.N.R. tracks at Pointe aux Trembles, Quebec.

85044 Nov. 24—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.N.R. at mileage 21·13 Three Hills Subdivision, Alberta.

85045 Nov. 24—Authorizing the C.P.R. to construct and operate a branch line of railway in the City of Lethbridge, Alberta, to serve the City of Lethbridge Stores Building.

85046 Nov. 24—Authorizing the C.N.R. and The Essex Terminal Railway Company to operate under the pedestrian overpass, in the City of Windsor, Ontario.

85047 Nov. 24—Authorizing the C.P.R. to join its tracks with the tracks of the C.N.R., in the Town of Whitby, Ontario.

85048 Nov. 24—Authorizing the City of Montreal, Quebec, to construct Jarry Street across the C.P.R. by means of a subway in the City of Montreal, Quebec.

85049 Nov. 24—Permitting the removal of slow order at C.P.R. crossing near the Town of Cookshire, Quebec.

85050 Nov. 24—Permitting the removal of slow order at C.P.R. crossing of Victory Highway, in the City of Magog, Quebec.

85051 Nov. 24—Permitting the removal of slow order at C.P.R. crossing, south of station at Pilger, Saskatchewan.

85052 Nov. 24—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 10, being the second crossing west of the station at Melville, Saskatchewan.

85053 Nov. 24—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Revelstoke, British Columbia.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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In the matter of the apportionment of the remainder of the cost of the works and of the cost of maintenance in connection with the subway authorized to be constructed at the crossing of the Canadian National Railways and Davenport Road, in the City of Toronto, Ontario, by Order of the Board No. 84194, dated July 22, 1954.

File No. 132·1

Before:

Mr. HUGH WARDROPE, *Assistant Chief Commissioner.*
Mr. H. B. CHASE, C.B.E., *Commissioner.*
Mr. O. A. MATTHEWS, *Commissioner.*

Heard at:

Toronto, Ontario, on October 13, 1954.

Appearances:

Mr. F. A. A. CAMPBELL, Q.C., for the City of Toronto.
Mr. F. CAWTHORNE, Q.C., for the Toronto Hydro-Electric System.
Mr. J. W. G. MACDOUGALL, for the Canadian National Railways.
Mr. I. S. FAIRTY, Q.C., and Mr. G. A. McGILLIVRAY, Q.C., for the Toronto Transportation Commission.

JUDGMENT

CHASE, Commissioner:

Before proceeding with the actual apportionment of the costs of the subway to be constructed at the crossing of the Canadian National Railways and Davenport Road, in the City of Toronto, it would be well worthwhile to make some mention of the history relating to this particular crossing.

98274—1

At the present time and for some years past the crossing has been protected by watchmen and manually operated gates. The wages of the watchmen and the maintenance of the gates amount to approximately $12,000 per annum, the costs being divided and paid 25 per cent by the Canadian National Railways, 50 per cent by the Toronto Transportation Commission and 25 per cent by the City of Toronto, and it was stated at the hearing held on Wednesday, October 13, 1954, that the crossing was practically accident free, the last accident occurring in the year 1931 when a vehicle ran through the gates and collided with a train standing on the crossing.

Under date of July 2, 1953, the City of Toronto, through its Solicitor, applied to the Board for an Order to construct a subway and to apportion the costs among the parties interested and affected by the Order for construction, subject to a contribution from the Railway Grade Crossing Fund. The application was heard by the Board during its sittings in the City of Toronto on November 17, 1953, and by letter dated December 8, 1953, the parties concerned were advised that the Board had approved, in principle, the construction of the subway.

Under date of July 22, 1954, the Board issued Order No. 84191 authorizing the construction of the subway, provided for a contribution from the Railway Grade Crossing Fund of 40 per cent of the cost of construction, not exceeding, however, the sum of $150,000, and reserved the question of the apportionment of the remainder of the cost of the works, as well as the cost of maintenance, for further consideration of the Board.

Under date of August 30, 1954, Counsel for the City of Toronto wrote the Board stating in part:

> "The City is anxious to get on with the construction of this subway and I would appreciate it if you would fix a date to hear Counsel for the Railway and the City on the question of the apportionment of the remainder of the costs".

It was then decided that the matter of the apportionment of the remainder of the cost of the works and the cost of the maintenance thereof would be heard in the City of Toronto on Wednesday, October 13, 1954.

At the hearing, representatives appeared for the City of Toronto, for the Toronto Hydro-Electric System, for the Canadian National Railways and for the Toronto Transportation Commission.

Counsel for the City of Toronto strongly urged that the apportionment of the costs should be on a percentage basis and that, as the Canadian National Railways wanted provision to be made in the construction of the subway so as to permit a third track to be constructed over it—which it was estimated would cost $16,000—that particular cost should be assessed against the Canadian National Railways.

Counsel for the Toronto Hydro-Electric System made the following statement:

> "At the November hearing I filed our estimated costs and plans with the Board. Now being faced with the decisions and the rulings and judgments of the Board insofar as my client is concerned I am prepared to accept the same treatment which the Board may accord to the T.T.C. or the Bell Telephone Company". (See page 4716 of the Transcript).

Counsel for the Railways strongly urged that the apportionment of costs should be on a benefit basis and took the position that the subway was of far more benefit to the City and for the highway traffic than it would be for the Railways.

Counsel for the Toronto Transportation Commission stated in part:

> "As far as the position of the T.T.C. is concerned I do not know that I can escape under the jurisprudence of this Board from some contribution. In the Avenue Road case I think it was 10 per cent but the Avenue Road

maintenance they made it 7½ per cent. I do not know exactly why. It may have been there was an extra track put in there. I am open to enlightenment on that point. Well, there is the extra track to be put in here so the Board might consider making our contribution 7½ per cent". (See page 4715 of the Transcript).

The total revised estimate of costs, including the cost of the widening of the subway to accommodate the third additional track, namely, $16,000, is $593,000, and included in that amount is an item to cover property damage which is estimated by the City as amounting to $98,500 and by the Canadian National Railways as $89,000.

Being of the opinion that the costs should be apportioned on a benefit basis rather than on a percentage basis and in order to show who really gets the greater benefit, I would now reproduce and refer to Exhibit No. 7 which was submitted by Counsel for the Canadian National Railways during the hearing in November, 1953.

By totalling the highway traffic it will be noted that during the twenty-four hour period there were 8,679 eastbound movements and 8,485 westbound movements, making a grand total of 17,164 highway movements as against 26 railway movements, which I think is sufficient to prove to anyone that the construction of the subway is of far greater benefit to the users of the highway than to the Railways. It has been proven that so far as safety is concerned the protection presently provided at the crossing is adequate. Therefore, it follows that the construction of the subway is primarily necessary for the convenience of the public.

Counsel for the Railways argued that the amount to be paid by the Railways for the construction of the subway should be based on a capitalization of the costs presently assessed against them in relation to the wages of the watchmen and the maintenance of the gates. As above stated, these costs amounted to approximately $12,000 per annum, 25 per cent of which is presently being paid by the Railways. He stated:

> "And capitalizing 2700 dollars—I have not the figure for three thousand —but the 2700 dollars which was spoken of, capitalized at 5 per cent becomes 54,000 dollars and at 6 per cent reaches 45,000 dollars and I do submit that we will have a continuing cost of this subway, in comparison to the maintenance as assessed against the railway, equal to that share of our yearly maintenance cost of the subway structure". (See page 4694 of the Transcript).

As above stated, there is an item of property damage estimated by the City of Toronto as amounting to $98,500 and by the Railways as $89,000, also an item of $16,000 to provide for the extra track over the subway.

I do not agree with the suggestion made by Counsel for the Railways that the cost assessed against the Railways should be either $54,000 or $45,000, nor do I think that any part of the cost of land damage should be assessed against the Railways but that, on the other hand, the cost of the extra track should be assessed against the Railways. While the City will receive the greater benefit, the Railways will, I think, benefit to a greater extent than that estimated by their Counsel, and after most careful consideration I am of the opinion that the Railways should be required to pay a round sum of $100,000 towards the cost of the subway.

As to the Toronto Transportation Commission, it will benefit by being relieved of payment of 50 per cent of the cost of maintenance of the present protection, amounting to some $6,000 per annum. In this particular case, I feel that, having paid the above mentioned 50 per cent for many years, it has sufficiently discharged its obligation in relation to the level crossing. Or to put it another way, the construction of the subway brings to an end the responsibility of the Commission for the protection of the crossing.

Exhibit No. 7

Check of traffic over Davenport Road Crossing, Toronto
12.01 a.m. to 12.00 Midnight November 4, 1953

	Vehicle and Pedestrian Traffic													Railway Traffic				
	Eastbound							Westbound										
	Autos	Buses	Trucks	Motor Cycles	Bicycles	Horse Drawn Vehicles	Pedestrians	Autos	Buses	Trucks	Motor Cycles	Bicycles	Horse-drawn Vehicles	Pedestrians	North bound thru trains	North bound swtg. Movmt.	South bound thru trains	South bound swtg. Movmt.
Nov. 4.																		
12.01A— 1.00A.....	96	0	11	1	0	0	3	186	1	5	0	0	0	8	0	0	0	0
1.01A— 2.00A.....	26	0	6	0	0	0	1	46	0	5	0	0	0	4	0	0	0	0
2.01A— 3.00A.....	13	0	3	0	0	0	0	30	0	2	0	0	0	0	1	0	0	0
3.01A— 4.00A.....	19	0	2	1	0	0	0	10	0	4	0	0	0	0	1	0	0	0
4.01A— 5.00A.....	10	0	7	0	0	0	0	12	0	10	0	0	0	3	0	0	1	0
5.01A— 6.00A.....	26	0	8	0	0	0	3	19	1	6	0	0	0	2	0	0	1	0
6.01A— 7.00A.....	126	0	23	1	0	0	20	147	0	28	2	1	1	13	0	0	2	0
7.01A— 8.00A.....	382	0	84	3	0	0	17	430	1	75	1	2	0	30	0	1	0	0
8.01A— 9.00A.....	550	0	310	2	0	1	20	395	1	295	6	0	0	0	2	0	1	0
9.01A—10.00A.....	200	0	200	0	0	0	35	140	0	125	0	0	0	0	0	0	1	0
10.01A—11.00A.....	290	0	290	0	0	0	16	280	0	160	0	0	0	0	0	0	2	0
11.01A—12.00A.....	330	0	235	9	0	4	15	400	0	240	5	0	0	0	0	0	0	0
12.01P— 1.00P.....	355	0	240	0	0	0	12	390	0	215	2	0	2	0	0	0	0	1
1.01P— 2.00P.....	335	3	158	0	0	0	6	280	0	135	0	0	0	0	0	1	0	0
2.01P— 3.00P.....	250	0	135	0	0	0	17	290	0	100	0	0	1	0	0	0	0	0
3.01P— 4.00P.....	300	0	158	5	0	2	50	290	0	145	10	7	0	0	0	0	0	0
4.01P— 5.00P.....	555	0	154	2	0	0	60	543	0	185	1	7	0	85	0	0	2	0
5.01P— 6.00P.....	635	0	135	4	0	0	92	576	0	118	2	1	0	89	0	0	0	0
6.01P— 7.00P.....	296	0	25	0	0	0	13	298	0	42	2	2	0	24	1	0	1	0
7.01P— 8.00P.....	433	1	26	1	0	0	17	321	0	30	1	1	0	16	0	0	2	0
8.01P— 9.00P.....	235	0	23	1	0	0	17	254	0	22	1	0	0	20	0	0	1	0
9.01P—10.00P.....	179	0	16	0	0	0	8	260	0	18	0	0	0	9	0	0	1	0
10.01P—11.00P.....	142	0	7	0	0	0	5	227	0	16	0	0	0	6	1	0	0	0
11.01P—12.00P.....	158	0	9	0	0	0	5	283	0	13	0	1	0	13	2	0	0	0
Total.....	5,941	4	2,265	30	0	7	432	6,107	3	1,994	33	22	4	322	8	2	15	1

In using the subway, the Commission will be on common ground with other users thereof and will therefore not receive any material benefit from the running of its streetcars through the subway. For these reasons, in this particular case I do not consider that the Toronto Transportation Commission should be assessed any portion of the cost of the subway. The Commission should, however, be required to pay the cost of re-locating its own facilities and such further costs as are set out below. In reaching this decision I have noted the decision of the Board in *C.P.R.* v. *Montreal and Montreal Transportation Commission,* C.R.C. No. 69, page 208.

The Toronto Hydro-Electric System should also be required to pay the cost of re-locating its facilities.

An Order will therefore go apportioning the costs of the construction of the subway as follows:

(1) 40 per cent of the cost of construction, not exceeding, however, the sum of $150,000, to be paid out of the Railway Grade Crossing Fund, as already provided for under Board's Order No. 84194, dated July 22, 1954.

(2) The Canadian National Railways to contribute the sum of $100,000.

(3) The balance of the cost of construction to be paid by the City of Toronto.

(4) The Toronto Transportation Commission (which I understand is now known as the Toronto Transit Commission) and the Toronto Hydro-Electric System to pay the cost of re-locating their own respective facilities.

And the cost of maintenance as follows:

(1) The cost of maintenance of the subway structure to be borne 25 per cent by the Canadian National Railways and 75 per cent by the City of Toronto.

(2) The Canadian National Railways to maintain their own track structure and the City of Toronto to maintain the pavement (with the exception of the pavement as relating to the tracks of the Toronto Transit Commission), drainage, lighting and sidewalks.

(3) The cost of maintenance of the pavement as relating to the Toronto Transit Commission to be borne by that Commission.

NOVEMBER 12, 1954.

H. B. CHASE.

I concur:

HUGH WARDROPE.

I concur:

O. A. MATTHEWS.

ORDER No. 84987

In the matter of the apportionment of the remainder of the cost of the works and of the cost of maintenance in connection with the subway authorized to be constructed at the crossing of the Canadian National Railways and Davenport Road, in the City of Toronto, Ontario, by Order of the Board No. 84194, dated July 22, 1954.

File No. 132·1

WEDNESDAY, the 17th day of November, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the matter at a sitting of the Board held in Toronto, Ontario, on October 13, 1954, in the presence of Counsel for the City of Toronto, the Toronto Hydro-Electric System, the Canadian National Railways and the Toronto Transportation Commission—

It is ordered

1. That after a contribution from the Railway Grade Crossing Fund, not exceeding the sum of $150,000.00, as already provided for under Board's Order No. 84194, dated July 22, 1954, the sum of $100,000.00 be paid by the Canadian National Railways, and the balance of the cost of construction of the said subway be borne and paid by the City of Toronto.

2. That the Toronto Transportation Commission (Toronto Transit Commission) and the Toronto Hydro-Electric System pay the cost of relocating their own respective facilities.

3. That the cost of maintenance of the said subway structure be borne and paid twenty-five per cent by the Canadian National Railways and seventy-five per cent by the City of Toronto.

4. That the Canadian National Railways maintain their own track structure and the City of Toronto maintain the pavement (with the exception of the pavement relating to the tracks of the Toronto Transit Commission), drainage, lighting and sidewalks.

5. That the cost of maintenance of the pavement relating to the Toronto Transit Commission be borne and paid by that Commission.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORAL JUDGMENT

Delivered at conclusion of hearing at London, Ontario, December 8, 1954.

In the matter of the application of the Canadian National Railways, under Section 259 and all other relevant sections of the Railway Act, for an Order authorizing them to cross Highbury Avenue, London, Ontario, with one additional switching lead as shown on Plan No. F-681-H, dated July 16, 1954.

File No. 26711·244

WARDROPE, HUGH, Assistant Chief Commissioner:

Gentlemen, I may say we have given consideration to this matter and have been able to reach a decision, which I propose to give you now.

This is an application of the Canadian National Railways, under Section 259 and all other relevant sections of the Railway Act, for an Order authorizing them to cross Highbury Avenue, London, Ontario, with one additional switching lead as shown on Plan No. F-681-H, dated July 16, 1954, which, as understood during this hearing, is to be amended.

Having heard Counsel for the Railways and Counsel for the City of London, and evidence of the witnesses, the main contention of the City against the application appears to be that its consent should be conditional and that the Board in its Order of approval should stipulate that in the event of separation of grade in the future at this point on Highbury Avenue, any additional costs caused by the additional track should be borne by the Railways.

As far as we know, the Board has never acceded to such a conditional approval as suggested by the City, and we do not think this is a proper case to consider departing from this principle. In our opinion it would be premature. We feel that as, if and when there may be a separation at Highbury Avenue the question of division of costs should be considered at that time, taking all factors into consideration as they may exist relating thereto.

However, this would not preclude the City, if a separation should be made at Highbury Avenue, from drawing to the attention of the Board any additional costs occasioned by the additional track.

In other words, we are not prepared at this time to bind the hands of the Board in the future as requested by the City.

As this appears to be the principal objection by the City to approval of the proposition of the Railways and we cannot acquiesce in it, we think the application should be approved on the undertakings with respect to alteration of protection at the crossing and alteration of the highway made necessary by the application, as given by the Railways. The cost of construction and maintenance of the additional track across the street to be at the expense of the Railways.

An Order will issue accordingly.

December 20, 1954.

HUGH WARDROPE.

Concurred in by Commissioners F. M. MACPHERSON and H. B. CHASE.

ORAL JUDGMENT

Delivered at conclusion of hearing at St. Thomas, Ontario, December 9, 1954.

In the matter of the application of the City of St. Thomas, Ontario, for a review by the Board of its Order No. 84570, dated September 20, 1954, which authorized Canadian National Railways to install automatic protection to replace the existing manually operated gates at the crossing of their railway and Manitoba Street in the City of St. Thomas, Ontario.

File No. 9437·654

WARDROPE, HUGH, Assistant Chief Commissioner:

Gentlemen, we have been able to come to our decision, and in this respect I may say that the crossing at Manitoba Street, which is the crossing in question, is presently protected by four manually controlled mechanical gates, which are operated twenty-four hours daily. These gates were installed in 1911, and authorized by Order No. 15636 dated December 13, 1911.

On March 8, 1954, in a letter addressed to the Secretary of the Board, the City of St. Thomas stated as follows:

> "The Council of the Corporation of the City of St. Thomas has by resolution on March 5th last, directed application to your Board for replacement of the presently manually operated gates at the crossing of the Canadian National Railways over Manitoba Street, with automatically operated protection.
>
> In accordance with the present recommendation your Board has made in respect to automatic protection at the Balaclava Street crossing of this railway, it is recommended that automatic protection be also installed at this crossing. The City of St. Thomas is prepared to assume its share of such replacement on the same basis as the apportionment of costs on the original installation and maintenance at this crossing."

I may say that with respect to the apportionment of costs, the City of St. Thomas later agreed to a proposed division as made by the Canadian National Railways in so far as automatic protection is concerned.

Following that letter from the City of St. Thomas, the matter was developed by the Board with the Railways and the recommendation by the Board's Inspector to the Board was that the proposed form of protection would be a better form of protection than that presently existing.

However, in the meantime, before the Board's Order issued authorizing the proposed protection, by letter dated June 8, 1954, from the City of St. Thomas to the Board, the City stated *inter alia* as follows:

> "Members of the Council have expressed some anxiety over the positions of the men who are presently employed on the manually operated gates at the present time. They are wondering if some consideration may be given by the Railway Company to the retention of these men on the staff until such time as they are retired."

Following that communication the Board received a further letter from the City of St. Thomas dated July 6th informing the Board that the following resolution was adopted by the City Council:

> "That this Council's application for automatic signal protection at the Manitoba Street crossing of the Canadian National Railway be withdrawn."

However, the Board proceeded with the matter and by Order No. 84570 dated 20th September, 1954 authorized automatic protection at the Manitoba Street crossing in lieu of the existing manually operated gates.

Subsequent to the issuance of this Order the City advised the Board, under date of October 27, 1954, as follows:

> "In reply to your letter of October 15th which I have presented to the City Council, I wish to advise that they have directed me to request your Board to review their decision respecting the protection of the Manitoba Street Crossing and that a public hearing be held in the City of St. Thomas for further consideration of submissions."

Following receipt of that letter, the Board by Order No. 84894 dated the 3rd day of November, 1954, suspended its Order No. 84570 of September 20, 1954, which authorized the change in protection pending a review thereof by the Board. Therefore, the Board set the matter down for hearing and that is why we are here today.

I may say, as I said at the opening of the hearing this morning, that in these matters what the Board is primarily interested in and concerned with is the safety of the public and also the efficiency and economy of the method of protection.

In so far as the present protection is concerned, that is, the manually operated gates, it can be said that they have been reasonably satisfactory, although the accident record at this crossing is as follows:

There was an accident in 1934 when a pedestrian (a trainman) was struck by an engine. This trainman had misjudged the track on which the engine was moving.

The next accident reported was in 1937 when a car ran into the side of an engine and it was stated that the gateman was late in lowering the gates, and in consequence of his dereliction of duty he was suspended for eighteen days.

The Board's experience and the experience of its officers is that the type of proposed protection, in lieu of manually controlled protection, is in practically all instances even more efficient and provides greater safety than manually operated gates, and at the same time it is more economical.

In this respect I might draw attention to the cost of the present manually operated gates, which I understand can be summarily stated as follows: The annual cost, including maintenance and operation, is somewhere in the neighbourhood of $10,800, the City's share of which under the original Order is 25 per cent or opproximately $2,700 per annum. As we understand it, with the automatic protection, which will cost in the neighbourhood of some $13,000, the annual maintenance will only be some $850. So it can be seen that so far as the principal parties are concerned there will be a decided saving.

While the Board understands perfectly well the concern of the City over the position of the men who are presently employed on the manually operated gates, as stated in the City's letter of June 8th, this is not a factor that would outweigh the benefits to the public in so far as the Board is concerned.

In addition, we are not convinced that the proposed method of protection would cause undue delays to vehicular traffic at the crossing, as has been suggested to us this morning.

So that, taking all factors into consideration, we feel that in the public interest, as well as in the interests of the City of St. Thomas and the Railways, the Order of the Board No. 84570 of 20th September, 1954, authorizing automatic protection, should stand and the Order for suspension, that I have mentioned above, be rescinded.

An Order will issue accordingly.

December 20, 1954.

HUGH WARDROPE.

I concur:

H. B. CHASE.

ORDER No. 85219

In the matter of the application of the City of St. Thomas, Ontario, for a review by the Board of its Order No. 84570, dated September 20, 1954, which authorized Canadian National Railways to install automatic protection to replace the existing manually operated gates at the crossing of their railway and Manitoba Street in the City of St. Thomas, Ontario:

File No. 9437·654

WEDNESDAY, the 22nd day of December, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sittings of the Board held in St. Thomas, Ontario, on the 9th day of December, 1954, in the presence of Counsel for the Canadian National Railways and the City of St. Thomas—

It is ordered that Order No. 84894, dated November 3, 1954, be, and it is hereby rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85165

In the matter of the application of the Canadian Freight Association under section 325 of the Railway Act, for approval of Supplement No. 39 to Canadian Freight Classification No. 19, Agent R. K. Watson's C.T.C. No. 983, on file with the Board under file No. 33365·165:

MONDAY, the 13th day of December, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in *The Canada Gazette,* as required by section 325 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections, if any, be filed with the Board within thirty days; no one offering any objection:

And upon reading the submissions filed—

It is ordered that the said Supplement No. 39 to Canadian Freight Classification No. 19, Agent R. K. Watson's C.T.C. No. 983, on file with the Board under file No. 33365·165, be, and it is hereby approved subject to the following changes:

Amend 12, page 30 to read:

	RATINGS	
	L.C.L.	*C.L.*
Chimneys or Chimney Sections, aluminum and steel, with or without necessary insulating material, in boxes or crates	1	
In packages named, C.L., min. wt. 20,000 lbs. Rule 7		3

Amend Items 24 to 30, page 43 to read:

Boilers, Range and Range Boiler Stands:		
Range Boilers with Water Heaters:		
Steel, in boxes or crates	2	
C.L. min. wt. 20,000 lbs., Rule 7		4
C.L., min. wt. 24,000 lbs., Rule 7		5
Other than Steel, in boxes or crates	1	
C.L., min. wt. 20,000 lbs., Rule 7		4

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 85194

In the matter of the application of the Canadian Freight Association, dated October 12, 1954, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated October 12, 1954, between the Canadian National Railways, the Canadian Pacific Railway Company and Nabob Foods Division, Kelly Douglas & Co. Ltd., in groceries, carloads, from Vancouver, B.C., to Calgary, Alberta, and Edmonton, Alberta:

And in the matter of the application of The Mainland Transfer Company Limited and the Johnston National Storage Limited for a charge to be fixed the same as the agreed charge as aforesaid:

File No. 40994·67

FRIDAY, the 17th day of December, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the agreed charge on file with the Board under file No. 40994·67 and attached to the said application, between the Canadian National Railways, the Canadian Pacific Railway Company and Nabob Foods Division, Kelly Douglas & Co. Ltd., on groceries, carloads, from Vancouver, B.C., to Calgary, Alberta, and Edmonton, Alberta, be, and it is hereby approved; and the Board hereby fixes the 13th day of October, 1954, as the date from which the said agreed charge shall be deemed to have become operative and to continue in effect subject to Condition 6 thereof.

2. That a charge is hereby fixed for the transport by the said Carrier of the same goods from the same point of origin to the same points of destination as set out herein, for The Mainland Transfer Company Limited and the Johnston National Storage Limited, subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby fixes as the dates upon which the said fixed charge shall be deemed to have become operative as follows:

The Mainland Transfer Company Limited—November 8, 1954.

Johnston National Storage Limited—October 28, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85198

In the matter of the application of Packard Motor Car Company of Canada, Limited, of Windsor, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 76 as approved by the Board:

File No. 40994·60

FRIDAY, the 17th day of December, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Packard Motor Car Company of Canada, Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from and to stations and/or places as set out in Agreed Charge Tariff C.T.C. (AC) No. 76, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 76 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said tariff, shipped by the Packard Motor Car Company of Canada, Limited from Windsor, Ontario, to the stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85200

In the matter of the application of Ronald A. Chisholm, Limited, Toronto, Province of Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 69 as approved by the Board:

File No. 40994·63

FRIDAY, the 17th day of December, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Ronald A. Chisholm, Limited, has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its butter, carloads, from and to stations and/or places as set out in Agreed Charge Tariff C.T.C. (AC) No. 69, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 69 for the transport, by the railway companies parties thereto, of butter, (carloads), as described in paragraph B of the said tariff, shipped by Ronald A. Chisholm, Limited, from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85251

In the matter of the application of Trans-Canada Pipe Lines Limited for an Order extending the period for satisfying the Board that satisfactory arrangements have been completed for financing the construction and obtaining necessary licences in respect of its proposed company pipe line, for which leave to construct was granted by Order No. 84220, dated July 24, 1954:

File No. 45371·20·2

MONDAY, the 27th day of December, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the period fixed in the said Order No. 84220 for satisfying the Board that satisfactory arrangements have been completed for financing the construction of the said proposed pipe line and that any licences which may be necessary under the Electricity and Fluid Exportation Act have been or will be granted, be, and it is hereby extended until the 30th day of April, 1955.

JOHN D. KEARNEY,
Chief Commissioner.

(CIRCULAR LETTER)

OTTAWA, December 23, 1954.

Dear Sir:

In the matter of rates on lumber and related articles in tariffs filed with the Board of Transport Commissioners to become effective January 1, 1955.

File No. 26901·62·7

Tariffs have been filed with the Board, to become effective January 1, 1955, publishing rates on lumber and related articles from points in the Provinces of British Columbia, Alberta, Saskatchewan and Western Ontario to points in Western Canada.

The Interior Lumber Manufacturers' Association, Northern Interior Lumbermen's Association, Saskatchewan Federated Co-operatives Limited and Crow's Nest Pass Lumber Co. Limited have filed with the Board applications complaining of certain rates in these tariffs and asking for suspension thereof.

Upon consideration of the tariffs and the complaints the Board issued Order No. 85233, dated December 23, 1954, postponing until February 1, 1955, the effective date of the tariffs.

It is hoped that the postponement of the effective date until February 1st will enable the interested parties to hold discussions and reach agreement in respect of the tariffs.

The Interior Lumber Manufacturers' Association is a principal objector to the rates and it is understood that it will assume the responsibility for arranging a conference of the interested parties, to commence on or about January 12, 1955, at Vancouver for the purpose of discussing the tariffs and objections and, if possible, reaching agreement.

The Board intends to be in Vancouver on January 11, 1955, and for some days thereafter and, failing agreement by the interested parties in respect of the tariffs, the Board will on January 17, 1955, at Vancouver, hear the applications complaining of the tariffs and if necessary will also hear any objections to further postponement of their effective date or suspension.

The parties will please treat this as a notice of hearing on January 17, 1955, at Vancouver at a place to be notified to them, should they not reach agreement prior to that date in respect of the tariffs.

Yours very truly,

E. R. HOPKINS,

Secretary, B.T.C.

ORDER No. 85233

In the matter of rates on lumber and related articles in tariffs filed with the Board of Transport Commissioners to become effective January 1, 1955:

File No. 26901·62·7

THURSDAY, the 23rd day of December, A.D. 1954.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*

Upon consideration of the said tariffs and complaints filed with the Board in respect of certain rates in the tariffs—

It is ordered that the effective date of the following tariffs be, and it is hereby postponed until the 1st day of February, 1955:

Canadian National Railways

Tariff C.T.C. No. W.2227
Tariff C.T.C. No. W.2228
Tariff C.T.C. No. W.2229
Tariff C.T.C. No. W.2230
Tariff C.T.C. No. W.2231
Supplement 7 to C.T.C. No. W.2101.
Supplement 111 to C.T.C. No. W.2042
Items Nos. C-74-Z and 525B of Supplement 112 to C.T.C. No. W.2042

Canadian Pacific Railway Company

Tariff C.T.C. No. W.4201
Tariff C.T.C. No. W.4202
Supplement 23 to C.T.C. No. W.4166
Supplement 10 to C.T.C. No. W.4085

Esquimalt & Nanaimo Railway Company

Tariff C.T.C. No. 858
Supplement 23 to C.T.C. No. 845

Vancouver and Lulu Island Railway Company

Items Nos. 820-B; 850-A; page 4 and mileage rates on page 5 of Supplement 38 to C.T.C. No. 47
Items Nos. 820-B; 850-A; page 4 and mileage rates on page 5 of Supplement 39 to C.T.C. No. 47

Northern Alberta Railways

Supplement 16 to C.T.C. No. 78
Supplement 17 to C.T.C. No. 78

British Columbia Electric Railway Company

Items 260-B; 275-A; page 6, minimum carload weight rule and Column 13 rates on page 7 of Supplement 17 to C.T.C. No. 360.

JOHN D. KEARNEY,
Chief Commissioner.

ERRATUM

Pamphlet dated January 1, 1955, was incorrectly marked "Volume XLIII". It should have been marked "Volume XLIV".

SUMMARY OF ORDERS ISSUED BY THE BOARD

85054 Nov. 24—In the matter of the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, approved by General Order No. 779, and the shipment of samples of approved commercial high explosives and safety fuse by rail express.

85055 Nov. 24—Approving Supplement to Traffic Agreement between the Bell Telephone Company and The Byron Telephone Company Limited.

85056 Nov. 24—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and The East Middlesex Telephone Company Limited.

85057 Nov. 24—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and Austin Telephones Limited.

85058 Nov. 24—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of London.

85059 Nov. 25—Amending Order No. 54393 in the matter of the allocation of the cost of maintenance of the bells and wig wags installed at the crossing of Highway No. 47 and the C.N.R. west of Stouffville Station, Ontario.

85060 Nov. 25—Approving Supplement to Traffic Agreement, between the Bell Telephone Company and the Oxford Telephone Company Limited.

85061 Nov. 25—Authorizing the Quebec Department of Roads to widen and straighten its Highway No. 25A where it crosses the C.N.R. in the Parish of St. Damien, County of Bellechasse, Quebec.

85062 Nov. 25—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 16 across the company pipe line of the Interprovincial Pipe Line Company at the east boundary of Section 8-17-R17-W2M, Saskatchewan.

85063 Nov. 25—Authorizing the City of Revelstoke, British Columbia, to construct Pearson Street across the C.P.R.

85064 Nov. 25—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Teulon, Manitoba.

85065 Nov. 25—Permitting the removal of slow order at C.N.R. crossing at mileage 73·48 Wabamun Subdivision.

85066 Nov. 25—Approving under the Maritime Freight Rates Act toll published in supplement to Tariff, filed by the C.N.R. under sections 3 and 8.

85067 Nov. 25—Authorizing the C.N.R. to discontinue the station agency at Nixon, Ontario.

85068 Nov. 25—Authorizing the C.P.R. to construct a branch line of railway to serve the Potash Company of America Limited, near Cheviot Station, Saskatchewan.

85069 Nov. 26—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Colborne.

85070 Nov. 26—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Wallacetown and Lake Shore Telephone Association Limited.

85071 Nov. 26—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Burnt River Telephone Company Limited.

85072 Nov. 26—Permitting the removal of slow order at C.N.R. crossing south of the station at St. Laurent, Manitoba.

85073 Nov. 26—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85074 Nov. 26—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Sydney and Louisburg Railway Company under section 8.

85075 Nov. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the Northern Alberta Railways Company's tracks, at Fairview, Alberta.

85076 Nov. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks, at Salmon Arm, British Columbia.

85077 Nov. 29—In the matter of amending Order No. 85068, concerning the application of the C.P.R. for authority to construct a branch line to serve the Potash Company of America Limited, near Cheviot Station, Saskatchewan.

85078 Nov. 29—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.N.R. under sections 3 and 8.

85079 Nov. 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Roblin, Manitoba.

85080 Nov. 29—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Fisher Branch, Manitoba.

85081 Nov. 30—Authorizing the Quebec Department of Roads to relocate its highway where it crosses the C.N.R., in the Parish of Notre Dame des Anges, County of Portneuf, Quebec.

85082 Dec. 1—Authorizing the C.N.R. to discontinue the present railway passenger service between Coteau and Valleyfield, Quebec, and to substitute therefor passenger service by means of buses.

85083 Dec. 1—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

85084 Dec. 1—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

85085 Dec. 1—Authorizing the C.P.R. to construct a branch line of railway to serve Morrow's Feed and Farm Supply, Mission City, British Columbia.

85086 Dec. 1—Authorizing the C.P.R. to construct a siding across 34th Street, Saskatoon, Saskatchewan.

85087 Dec. 1—Approving proposed location of storage tank, etc., of the C.N.R. near their tracks at London, Ontario.

85088 Dec. 1—Authorizing the Ontario Department of Highways to construct Highway No. 60, across the C.N.R., near Killaloe, Ontario.

85089 Dec. 2—Authorizing the C.N.R. to close as an agency their station and appoint a caretaker at St. Boswells, Saskatchewan.

85090 Dec. 2—In the matter of the application of the C.N.R. for an Order amending Order No. 82507, as amended by Order No. 82772, which authorized the opening for the carriage of traffic of their railway line from Sherridon to Lynn Lake, Saskatchewan.

85091 Dec. 2—Permitting the removal of slow order at C.N.R. crossing of Martin Street, north of the station at Milton, Ontario.

85092 Dec. 2—Permitting the removal of slow order at C.P.R. crossing south of the station at Waltham, Quebec.

85093 Dec. 2—Permitting the removal of slow order at C.N.R. crossing west of mileage 113 Elrose Subdivision, Saskatchewan.

85094 Dec. 2—In the matter of approval of plan submitted to the Northern Alberta Railways Company, by Shell Oil Company Limited, showing location of crude oil loading facilities at Reno, Alberta.

85095 Dec. 2—Approving location and special design station proposed to be erected at North Battleford, Saskatchewan.

85096 Dec. 2—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Gladstone Subdivision, Manitoba.

85097 Dec. 2—Authorizing the C.P.R. to use and operate the bridge over Big Joggins River, at Big Joggins, Nova Scotia.

85098 Dec. 2—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Harte Subdivision, Manitoba.

85099 Dec. 2—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near the C.N.R. tracks at Bridgewater, Nova Scotia.

85100 Dec. 2—Approving proposed location of storage tank, etc., of North Star Oil Limited, near the C.P.R. tracks at Fillmore, Saskatchewan.

85101 Dec. 2—Authorizing the City of Levis, Quebec, to widen St. Laurent Street where it crosses the C.N.R., in the City of Levis, Quebec.

85102 Dec. 2—In the matter of the application of the C.N.R., on behalf of Great Plains Development Company of Canada, Limited, for approval of facilities for loading crude oil into tank cars from tank trucks at Wayne, Alberta.

85103 Dec. 2—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under section 3.

85104 Dec. 2—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85105 Dec. 2—Authorizing the Ontario Department of Highways to construct its Highway No. 2 across the right-of-way of the New York Central Railroad Company, in the Township of Cornwall, Ontario.

85106 Dec. 2—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Windermere Subdivision, British Columbia.

85107 Dec. 2—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 17, north of the station at Coniston, Ontario.

85108 Dec. 2—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Fenelon Falls Rural Telephone Company Limited.

85109 Dec. 2—Authorizing the C.N.R. to make changes to the interlocking plant at the crossing of their railway and the C.P.R. Co. (Mission Branch), near Matsqui, British Columbia.

85110 Dec. 3—Approving Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) 57. (Canadian Freight Association).

85111 Dec. 6—In the matter of the application of Canadian Arsenals Limited for permission to use strapped boxes for the transportation by rail freight of RDX/TNT and RDX/Beeswax.

85112 Dec. 6—In the matter of approval of plan submitted to the C.N.R. by Stewart Petroleums Limited, showing the proposed site of loading liquefied petroleum gas from tank trucks into tank cars at Acheson, Alberta.

85113 Dec. 6—Permitting the removal of slow order at C.N.R. crossing south of Craigleith, Ontario.

85114 Dec. 6—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Deleau Station, Manitoba.

85115 Dec. 6—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada Limited, near C.P.R. tracks at Thedford Mines, Quebec.

85116 Dec. 6—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Otterburne Station, Manitoba.

85117 Dec. 6—Authorizing the City of Winnipeg, Manitoba, to construct Wellington Street across the C.P.R. right-of-way between Empress and St. James Streets, Winnipeg, Manitoba.

85118 Dec. 6—In the matter of the application of the C.N.R. for approval of drawing showing proposed location of the temporary diversion of the main line of its Hagersville Subdivision at Ottawa Street, Hamilton, Ontario.

85119 Dec. 6—Permitting the removal of slow order at C.N.R. crossing west of Port Robinson, Ontario.

85120 Dec. 7—Authorizing the C.N.R. to operate the bridge over the Etchemin River, mileage 65·8 Armagh Subdivision, Quebec.

85121 Dec. 7—Authorizing the C.P.R. to construct a siding to serve Lightweight Aggregates of Canada Limited across the highway in the Municipality of Springbank, Alberta.

85122 Dec. 7—Authorizing the C.P.R. to construct a siding to serve Alberta Ytong Manufacturing Company Limited across 53rd Avenue Southeast in the Manchester Industrial Area, Calgary, Alberta.

85123 Dec. 7—Authorizing the C.P.R. to construct a siding to serve G. Silvester Supplies Limited across the highway in the City of Calgary, Alberta.

85124 Dec. 7—Authorizing the C.P.R. to construct a siding to serve Rupert's Land Trading Company across King Edward Street, Winnipeg, Manitoba.

85125 Dec. 7—Authorizing the C.P.R. to construct a siding across Front Street, Taber, Alberta, to serve Cornwall Canning Company.

85126 Dec. 7—Authorizing the C.P.R. to construct a siding to serve Imperial Oil Limited, Penticton, British Columbia.

85127 Dec. 7—Authorizing the C.P.R. to remove the station agent and appoint a caretaker-agent at Fassett Station, Quebec.

85128 Dec. 7—Permitting the removal of slow order at C.P.R. crossing and Panet Road, mileage 122·53 Keewatin Subdivision, Manitoba.

85129 Dec. 7—In the matter of the application of the C.N.R. for approval of drawings showing the construction of tunnel to connect Shed 21 with the Customs Annex, Halifax, Nova Scotia.

85130 Dec. 7—Authorizing the C.N.R. to construct a service track across Kipling Avenue and Martin Grove Road, Township of Etobicoke, Ontario.

85131 Dec. 7—Authorizing the Quebec Department of Roads to widen the highway where it crosses the C.P.R. right-of-way in the Town of Cookshire, Quebec.

85132 Dec. 7—Authorizing the Imperial Oil Limited to construct a private road over the company pipe line of the Interprovincial Pipe Line Company, Limtied in the NE ¼-27-33-22 W3M, Saskatchewan.

85133 Dec. 7—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

85134 Dec. 7—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85135 Dec. 8—Authorizing the City of Salaberry-de-Valleyfield, Quebec, to construct Fabre Street across the siding of the Canadian Arsenals, Limited.

85136 Dec. 8—Authorizing the C.N.R. to make changes in the approach circuit of the automatic protection at the crossing of Notre Dame Street at St. Felicien, Quebec.

85137 Dec. 8—Authorizing the Quebec Department of Roads to construct the highway across the C.N.R. in the Parish of l'Ange Gardien, Quebec.

85138 Dec. 8—Authorizing the Municipality of the Village of Tring Jonction, Quebec, to construct the highway across the Quebec Central Railway Company in the Parish of St. Frederick, County of Beauce, Quebec.

85139 Dec. 8—In the matter of Order No. 85090, dated December 2, 1954, which amended Orders Nos. 82507 and 82772 authorizing the C.N.R. to open for the carriage of traffic their railway line from Sherridon to Lynn Lake, Manitoba.

85140 Dec. 9—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Granby Hill Telephone Association.

85141 Dec. 9—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Corporation of the Township of Maidstone.

85142 Dec. 9—Approving location and details of the Toronto, Hamilton and Buffalo Railway Company station shelter at Vinemount, Ontario.

85143 Dec. 9—In the matter of the application of the Canadian Freight Association for the approval of an agreed charge, dated November 3, 1954, on petroleum products.

85144 Dec. 9—Permitting the removal of slow order at first public crossing east of station at St. Vincent de Paul, Quebec.

85145 Dec. 9—Approving plan showing protection at crossing of Front Street, Toronto, by the branch line leading to the John Street yards.

85146 Dec. 9—In the matter of the application of the Eastern Townships Produce Limited, Sherbrooke, Quebec, and Lincoln Canning Company, St. Catharines, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 62 (canned goods and preserved products).

85147 Dec. 9—Authorizing the C.P.R. to make changes to the interlocking at the crossing of its railway and the C.N.R. at Medonte, Ontario.

85148 Dec. 9—Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 5 where it crosses the C.N.R. on the easterly boundary of the SE ¼-18-45-17 W3M, Saskatchewan.

85149 Dec. 10—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Marengo, Saskatchewan.

85150 Dec. 10—Approving proposed location of storage tanks, etc., of Mercury Varnish Company Limited near C.N.R. tracks at St. Catharines, Ontario.

85151 Dec. 10—Authorizing the C.P.R. to operate its trains under the overhead bridge at mileage 65·55, Parry Sound Subdivision, Ontario.

85152 Dec. 10—Approving proposed location of storage tanks, etc., of Canadian Petrofina Limited near C.N.R. tracks at Chicoutimi, Quebec.

85153 Dec. 10—Authorizing the C.P.R. to remove the caretaker at Nestorville, Ont.

85154 Dec. 10—Authorizing the Alberta Department of Highways to relocate the existing road across the C.N.R. in the SE ¼-35-45-10 W4M, Alberta.

85155 Dec. 10—Approving under the Maritime Freight Rates Act tolls published in supplement to tariffs filed by the Canadian Freight Association under sections 3 and 8.

85156 Dec. 10—Approving supplement to Service Station Contract between the Bell Telephone Company of Canada and the Mabel and Ogdensburg Rural Telephone Company.

85157 Dec. 10—Authorizing the County of Waterloo, Ontario, to widen Kitchener Suburban Road No. 14 where it crosses the C.N.R. at Parkway, Ontario.

85158 Dec. 10—Permitting the removal of slow order at C.P.R. crossing near Crossfield, Alberta.

85159 Dec. 10—Authorizing the C.N.R. to operate under the overhead bridge at mileage 58·0. Sudbury Subdivision, Ontario.

85160 Dec. 13—Approving proposed location of storage tanks, etc., of Riverlake Oils Limited near C.N.R. tracks at Umfreville, Ontario.

85161 Dec. 13—Authorizing the Ontario Department of Highways to construct an overhead bridge over the C.P.R. in Lot 2, Concession 10, Township of Goulbourn, Ontario.

85162 Dec. 13—Permitting the removal of slow order at C.P.R. crossing at mileage 35·66 Hardisty Subdivision, Saskatchewan.

85163 Dec. 13—Authorizing the C.P.R. to operate the subway in the NE ¼-36-49-28 W3M, Saskatchewan.

85164 Dec. 13—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85165 Dec. 13—Approving Supplement No. 39 to Canadian Freight Classification No. 19 subject to certain changes.

85166 Dec. 13—Permitting the removal of slow order at C.P.R. crossing and Provincial Highway No. 31, north of Salvador, Saskatchewan.

85167 Dec. 13—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of their railways at West Tower, City of Portage la Prairie, Manitoba.

85168 Dec. 14—Rescinding Order No. 84705, dated October 8, 1954, which approved plan showing proposed underpass to be constructed under the C.P.R. tracks at mileage 62·87 Heron Bay Subdivision, Ontario, to serve Marathon Paper Mills of Canada, Limited.

85169 Dec. 14—Authorizing the Marathon Paper Mills of Canada, Limited to construct an underpass under the tracks of the C.P.R. at mileage 62·87 Heron Bay Subdivision, Ontario.

85170 Dec. 14—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada Limited near C.N.R .tracks at Rimouski, Quebec.

85171 Dec. 14—Approving operation of the C.P.R. trains over the siding serving Saskatchewan Federated Co-Operatives Limited, Saskatoon, Sask.

85172 Dec. 14—In the matter of Order No. 85097, dated December 2, 1954, which authorized the C.P.R. to use and operate the bridge over Big Joggins River at Big Joggins, Nova Scotia.

85173 Dec. 14—Authorizing the C.P.R. to construct a siding across Dufferin Street at Darlingford, Manitoba, to serve Imperial Oil Limited.

85174 Dec. 14—Approving abandonment of operation of the Great Northern Railway Company's line of railway between Keremeos and Hedley, British Columbia.

85175 Dec. 14—Permitting the removal of slow order at C.N.R. crossing of Raglan Street, Renfrew, Ontario.

85176 Dec. 15—Permitting the removal of slow order at C.P.R. crossing at mileage 25·94, Swift Current Subdivision, Saskatchewan.

85177 Dec. 15—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 14, west of station at Reford, Saskatchewan.

85178 Dec. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Waldron, Saskatchewan.

85179 Dec. 15—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85180 Dec. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Togo, Saskatchewan.

85181 Dec. 15—Approving proposed location of storage tanks, etc., of Shell Oil Company near C.P.R. tracks at Midale, Saskatchewan.

85182 Dec. 15—Authorizing the Quebec Department of Roads to construct the highway across the Quebec Central Railway Company's right-of-way, in the Municipality of Riviere Blanche, County of Megantic, Quebec.

85183 Dec. 15—Approving proposed location and details of the station of the C.N.R. at Miscouche, Prince Edward Island.

85184 Dec. 15—Permitting the removal of slow order at C.N.R. crossing west of station at Grand Falls, Newfoundland.

85185 Dec. 15—Permitting the removal of slow order at C.P.R. crossing west of Thorncliff, Ontario.

85186 Dec. 15—Permitting the removal of slow order at the Toronto, Hamilton & Buffalo Railway Company and Leyland Avenue crossing, Hamilton, Ontario.

85187 Dec. 16—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85188 Dec. 16—Permitting the removal of slow order at C.P.R. crossing east of station at Thurso, Quebec.

85189 Dec. 17—Authorizing the Grand Trunk Pacific Railway Company to construct a siding across Ottawa Street, Town of Prince George, British Columbia.

85190 Dec. 17—Permitting the removal of slow order at C.N.R. crossing of Ste. Anne Road, east of station at Armagh, Quebec.

85191 Dec. 17—Authorizing the C.P.R. to replace the existing timber trestle with a structural plate culvert at mileage 43·1, Coquihalla Subdivision, British Columbia.

85192 Dec. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Lipton, Saskatchewan.

85193 Dec. 17—Approving proposed location of storage tanks, etc., of John Rock and Sons, near C.N.R. tracks at Springford, Ontario.

85194 Dec. 17—In the matter of the application of the Canadian Freight Association for approval of an agreed charge, dated October 12, 1954, between the C.N.R., the C.P.R. and Nabob Foods Division, Kelly Douglas & Co. Limited, on groceries, carloads, from Vancouver, B.C., to Calgary, Alberta; and in the matter of the application of the Mainland Transfer Company Limited and the Johnston National Storage Limited for a charge to be fixed the same.

85195 Dec. 17—Authorizing the C.N.R. to operate through the interlocking at the crossing of their railways at Hawthorne, Ontario.

85196 Dec. 17—Permitting the removal of slow order at C.N.R. crossing of McCowan Road, Scarboro, Ontario.

85197 Dec. 17—Authorizing Commissioner F. M. MacPherson to report to the Board upon questions and matters arising and to take evidence and acquire necessary information for the purposes of a report in the matter of the application of the C.N.R. and C.P.R. for an Order amending Order No. 79652, and in the matter of the question of what party will pay the cost of raising the power line ordered to be raised by Order No. 82877.

85198 Dec. 17—In the matter of the application of the Packard Motor Car Company of Canada, Limited at Windsor, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 76 on automobiles, freight or passenger and automobile chassis.

85199 Dec. 17—Permitting the removal of slow order at C.N.R. crossing north of station at Parkhead, Ontario.

85200 Dec. 17—In the matter of the application of Ronald A. Chisholm, Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 69 (butter in carloads).

85201 Dec. 17—Permitting the removal of slow order at C.N.R. crossing of Highway No. 9 north of Whites Junction, Ontario.

85202 Dec. 17—Permitting the removal of slow order at C.N.R. crossing of Highway No. 1 at mileage 111·76 Lewvan Subdivision, Regina, Saskatchewan.

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Applications of the Canadian Freight Association for approval of Agreed Charges on automobiles and chassis to Western Canada, account General Motors of Canada Limited and the Studebaker Corporation of Canada Limited.

File No. 40994·60

HEARD at Ottawa, October 1, 1954.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Appearances:

HUGH O'DONNELL, Q.C., W. G. BOYD, for Canadian Freight Association and Canadian National Railway Company.

K. D. M. SPENCE, Q.C., G. P. MILLER, for Canadian Freight Association and Canadian Pacific Railway Company.

N. KINGSMILL, for New York Central Railroad Company.

D. K. MACTAVISH, Q.C., R. C. MERRIAM, for Chrysler Corporation of Canada Limited.

M. L. RAPOPORT, for Saskatchewan Motor Dealers Association.

J. J. FRAWLEY, Q.C., for Province of Alberta, Maclin Motors Limited, Freeman Wilson Limited.

F. R. HUME, Q.C., for Canadian Trucking Associations.

99427—1

JUDGMENT

WARDROPE, A.C.C.:

By application dated May 6, 1954, filed with the Board on May 7, 1954, the Canadian Freight Association, on behalf of certain railways* hereinafter referred to as the Applicant, submitted for approval an agreed charge on automobiles and chassis, executed with General Motors of Canada, Limited, applicable from Oshawa, Walkerville and Windsor, Ontario, to numerous specifically named destinations in western Canada in the Provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan.

The application proposed that the agreed charge go into force on May 7, 1954, and continue in effect until terminated in accordance with the terms thereof.

On May 12, 1954, the Board received a further application submitting supplement No. 1 to the agreed charge previously submitted, providing for additional destination points in western Canada and for the application of the same agreed charge on the same description of traffic, from The Studebaker Corporation of Canada Limited, Hamilton, Ontario. All of the terms and conditions of the supplementary agreement are the same as in the agreed charge first submitted. It was proposed that the supplementary agreement be made effective May 12, 1954.

The rates proposed by these agreements are uniformly thirty cents per one hundred pounds lower than presently existing tariff rates which apply on a like description of traffic without restriction as to the shipper involved.

The applications state that the object to be secured cannot be attained by ordinary tariff publication because such tariff rates would not assure the movement of the traffic by rail; that increasing operations of unregulated highway transport have resulted in appreciable loss of this traffic to the railways; that the purpose of the agreements is to forestall further erosion of railway revenue; that shippers are increasingly favourable to highway movement due to the saving in handling and blocking expense resulting from such movement; and that the revenue of the railways will be increased by being "assured of obtaining a large volume of tonnage which would otherwise move by highway."

The application contains examples of ton-mile and car-mile revenue to show that the rates proposed are compensatory.

The agreed charges specify the traffic covered thereby, as follows:

> "Automobiles, Freight or Passenger, Set Up, and Automobile Chassis, Set Up (with each chassis there may be included one or more Seat Cabs), in straight or mixed carloads, handled by, for, or in connection with the business of the Shipper, to the extent of not less than 75% of the volume forwarded by the Shipper from the stations specified in Paragraph 'C(1)' to the stations and/or places specified in Paragraph 'C(2)', and the districts that are served therefrom, hereinafter called 'the said traffic'."

but in the conditions attaching to the agreed charge the foregoing appears to be modified by the provision stating: "The Shipper shall be at liberty, without infringing this agreement, to sell F.O.B." shipping point "to persons or firms other than its own agents."

* British Columbia Electric Railway Company Limited; Canadian National Railway Company; Canadian Pacific Railway Company; The Chesapeake and Ohio Railway Company (Pere Marquette District); The Esquimalt and Nanaimo Railway Company; The Essex Terminal Railway Company; The New York Central Railroad Company (Michigan Central District); Northern Alberta Railways Company; Ontario Northland Railway; Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee); Wabash Railroad Company.

Notices of the applications to the Board were published in the *Canada Gazette* and all of the requirements of our regulations, General Order No. 581, were complied with.

An application was received by the Board on July 2, 1954, from Morris Motors (Canada) Limited, Hamilton, Ontario, for a charge to be fixed by the Board the same as the agreed charges, on the grounds that its business would be unjustly discriminated against unless such a charge be fixed. The Applicant concurred in the said fixing of a charge as applied for.

Objections to approval of the agreements and requests for a hearing were made by the Province of Alberta, June 2nd; Chrysler Corporation of Canada, June 3rd; Canadian Trucking Associations, June 4th; and the Saskatchewan Motor Dealers Association, June 9th and 23rd. In consideration of these representations the Board, on July 27th, set the matter down for public hearing in Ottawa on August 24th, 1954, but subsequently deferred the date of hearing to October 1st, 1954.

On July 28th, Counsel for the Province of Alberta and for Chrysler Corporation of Canada Limited filed Notices of Motion seeking an Order directing that appropriate officers of certain railways and contracting shippers attend for examination for purposes of discovery before the Board. The said Motions were spoken to at a hearing for that purpose in Ottawa August 17th. 1954. By Oral Judgment then given, the motions were denied.

By telegram dated at Calgary, Alberta, August 12th, 1954, Freeman Wilson Limited, an authorized Dodge and DeSoto dealer; and by letter dated August 17th, 1954, Maclin Motors Limited of Calgary, a Ford and Monarch dealer, made objection to the approval of the agreed charge and authorized Counsel for the Province of Alberta to act on their behalf.

By letters dated September 9th and 22nd, 1954, Counsel for the Canadian National Railways and Canadian Pacific Railway Company furnished the Board with copies of their replies to requests for information made upon them by Counsel for Alberta and Chrysler Corporation. On September 9th, 1954 railway Counsel furnished copies of their requests for information respecting the business of Maclin Motors Limited and Freeman Wilson Limited, which information was filed as an exhibit at the hearing. A like request made of Chrysler Corporation was also furnished to the Board but if answered, such answer was not placed in the Board's possession.

On the 30th September, 1954, at the request of Counsel for Alberta, *et al.*, a subpoena was issued to require the attendance of certain employees of General Motors at the hearing on October 1st, 1954. Such subpoena was not served in person but the parties in question were advised by Counsel by telegraph of the issuance but did not attend.

I have detailed the foregoing only to show the various reasons why the Board was unable to dispose of the applications with greater dispatch.

The objections made by Counsel for Alberta and for Chrysler Corporation and submitted prior to the hearing, were practically identical. Briefly, they were:

1. the object of the agreed charge could be secured by means of a special or competitive tariff;
2. all competing carriers by rail have not joined in the agreed charge;
3. the agreed charge is not compensatory and is likely to have an adverse effect on the net revenue of the railways;
4. Chrysler Corporation, and some manufacturers of automobiles and chassis cannot join in the agreed charge owing to their marketing practices which allow dealers to determine the method of transportation from the factory.

Additionally Alberta alleged that the ultimate effect of the agreed charge, if approved, would be the complete destruction of highway transport of the said traffic from Ontario to Alberta, and that such result would be detrimental to the best interests of purchasers and users in Alberta of automobiles manufactured in Eastern Canada.

The written objection filed by the Canadian Trucking Association asserted that:

a. the agreed charge would be unduly prejudicial to 'for hire' highway freight carriers who have participated in the movement of the traffic and would place them and their business at an undue and unfair disadvantage;

b. the agreed charge will eliminate certain trucking companies from participation in the movement of the traffic, thereby preventing the growth of a form of transport which may be of great value to the commerce of the country in emergencies and otherwise;

c. the object to be secured can adequately be secured by a special or competitive tariff.

The only pre-hearing submission made by the Saskatchewan Motor Dealers Association was contained in a telegram of June 9th, stating: "Our Association objects to the principle of agreed charge contracts and details of such objection will be filed with the Board in due course."

Maclin Motors Limited and Freeman Wilson Limited merely voiced objection and stated Counsel for Alberta was authorized to act on their behalf.

At the commencement of the hearing Counsel for the Applicant objected to the participation therein of Counsel for the Province of Alberta and the Canadian Trucking Associations, on the grounds that they are neither shippers likely to be discriminated against nor carriers within the meaning of the Transport Act. We ruled that the Applicant's objections to the participation of the Canadian Trucking Associations in the case be upheld, although we agreed to hear an address which Counsel for the said Associations desired to make. Decision was reserved upon the right of the Province of Alberta to be party to the case in view of Counsel's appearance also on behalf of other interests whose right to object, under the Act, was not challenged. No necessity arose to further consider the status of the Province and I see no need to deal here with the matter.

While all parties agreed to waive formal proof of the filing of the application, a request was made by opposing Counsel that a copy of the application made to the Board be filed as an exhibit. Counsel for the Applicant objected thereto on the grounds that such documents were for the purpose of giving the Board as much information as possible to support the submission, but that in this case the objection was directed mainly to the principle of so furnishing such copies. Subsequently the application was made available to the objecting parties and became Exhibit No. 1.

Witnesses for the Applicant gave evidence mainly to the effect that the objective of the agreed charge could not be secured by ordinary tariff; that attempts to retain the traffic by competitive tariffs had failed, in that reduced railway rates had been met by like reductions by competitors.

Exhibit 4 was filed showing that new motor vehicle sales in four western provinces, as reported by Dominion Bureau of Statistics, for the years 1951, 1952 and 1953 had steadily increased, whereas the rail movement of such vehicles in each of the years had steadily declined. The exhibit estimated that the rail movement in 1951 was 74·3 per cent of the said sales, whereas in 1953 it was 54·4 per cent.

Exhibits 5 and 6 consisted of information supplied to the applicant by Counsel for Maclin Motors and Freeman Wilson Limited. In respect of Maclin Motors the movement of vehicles by rail in the first half of 1954 approximated from one-quarter to one-third of the total received by the said company. In general the exhibit showed no marked variation over a two and one-half year period as between rail and highway transport. The exhibit also shows that when the movement is by rail the cost to the dealer of unloading from railway cars and delivery to dealer's premises approximates $6.50 per vehicle.

In respect of Freeman Wilson Limited the exhibit shows that while in 1951 seventy-three per cent of passenger vehicles moved by rail, in the first six months of 1954, the movement had ceased entirely and transport by highway absorbed 100 per cent of such vehicle transportation. For the movement of trucks of which 99 per cent moved by rail in 1951, the 1954 percentage was 57 per cent.

The exhibit also shows that when the movement is by highway, the traffic is delivered to the dealer's door without any additional charges, whereas when the movement is by rail the dealer incurs an expense of approximately $7 per unit to unload from railway cars and deliver to the dealer, plus an additional charge of approximately $10 per unit for decking at the factory.

By Exhibit No. 7 it was shown that, taking all known factors into consideration the cost to the dealer of moving automobiles from Windsor, Ontario, to Calgary, Alberta, by highway ranged from $240 to $252 per unit versus the cost by rail at present rates of $264. Under the proposed agreed charge this cost would be reduced to $252.

The Applicant's witnesses stressed that the agreed charge had been negotiated with the knowledge that present rail traffic was threatened with curtailment and with the knowledge that other shippers had already gone over to shipping greater quantities by highway transport; and that the applicant would be willing to extend the same terms to all other shippers desiring to avail themselves of the provisions of the agreement.

It was also stated that the Applicant has not decided whether the existing competitive tariff rates will be withdrawn; that negotiations were in progress with other automobile manufacturers as to agreed charges, which negotiations had not reached a conclusion. It was admitted that if other manufacturers went fully to highway transport the railways might lose revenue, but did not anticipate such a complete withdrawal from rail movement. The attention of witnesses for the Applicant was drawn to a revised type of freight car equipment said to produce a reduction of the costs of decking freight cars, or the elimination of such decking. While the witnesses stated they had no knowledge of the adoption of such equipment it was their opinion that if adopted it would increase the cost to the railway of supplying the service.

Both witnesses for the Applicant stated that the effect on the net revenue of the railways from the making of the agreed charges had been studied and had been found to be compensatory. Requests by opposing Counsel for details of cost studies were refused on the grounds that to do so would be inimical to the railways competitive position. We upheld the refusal of similar data in the case recently decided in respect of iron and steel articles. Such information is available to the Board at any time.

Witness for Chrysler Corporation stated that he had not been present at the negotiations re the agreed charges, but had discussed the matter with the railways and had been informed the competitive tariff rates would be withdrawn if an agreed charge was not executed. He stated that his company had sold its products F.O.B. factory for the past 25 years and that the dealers controlled the routing, pay all freight costs and select the method of transport. He admitted that Chrysler Corporation had the option of changing their sales basis but had never done so, therefore Chrysler was unable to guarantee the

forwarding of the specified tonnage by railway. He expressed the opinion that if the railways adopted the so-called Evans Loader, which would eliminate decking charges, there would be no need to make agreed charges; that the trend to highway transport was the result of the high decking cost. He admitted, however, that without an agreed charge contract, regardless of the possible change of loading method, the shippers would be free to use railways or trucks as they may choose.

Counsel for Alberta attempted to adduce evidence through a witness engaged in the business of transporting automobiles over the highway, for the purpose of establishing that the agreed charge will seriously affect the highway transportation of automobiles. Objections voiced by Counsel for the Applicant to such evidence by these means were sustained and the witness was not heard.

Counsel for the Canadian Trucking Associations addressed the Board chiefly upon the effect on the economy of the country of railway agreed charges made to meet competition of highway transport. The submission was largely founded upon reasons which impelled us to reject an agreed charge which would unduly affect transportation by competing water carriers. Our decision in that matter is cited in 54 C.R.T.C. at p. 1, was upheld by the Supreme Court of Canada, C.R.T.C. 162, and by Privy Council, 58 C.R.T.C. 113. As Counsel by our invitation, was addressing his submission to us in respect of the broad powers we hold under subsection (15) Section 32 of the Transport Act, and in particular to the regard we shall have to all relevant considerations, it must be noted that our decision in the case cited was predicated upon our being also charged with regulative powers over such water carriers—a condition not here existing in respect of highway transport.

To now summarize the argument of Counsel: for the Applicant, it is asserted that the object cannot be secured by ordinary tariff procedure; the proposed agreed charge is compensatory to the railways; Chrysler Corporation has admitted it can sell its products on terms of its own choice; the Board has stated in the Goodrich case, 54 C.R.T.C. 140, and in the McColl Frontenac case, 63 C.R.T.C. 300, that if the shipper can accept the benefits and does not choose to do so, there is no unjust discrimination; that the railways have shown loss of traffic in the face of increased sales of such vehicles; and that while the competitive tariff rates have not achieved their purpose the agreed charge assures the railway of 75 per cent of the traffic.

For Chrysler Corporation it was asserted by Counsel that to adopt the agreed charge would entail a change in the established method of doing business which has prevailed for 25 years; that it is impossible for Chrysler to comply with the terms of the agreement; and that this puts them in the position of inescapable prejudice. He also stated that indications point to the removal of present competitive rates, which if accomplished will place Chrysler in an intolerable situation versus its competitors who are parties to the agreed charge.

Counsel for the Saskatchewan Motor Dealers Association points out that dealers are asked to change their methods of conducting business to suit the railways, instead of being allowed to conduct their affairs as they choose. He suggests that the railways are seeking only to retain traffic they already enjoy and asks if it is sufficient reason to justify an agreed charge, as the railways are reducing rates on traffic they now have. He states further that dealers want competitive transport; that the object sought to be attained by the agreed charge can be secured by tariff procedure; and that the agreed charge will give the railways an unfair advantage.

Mr. Rapoport, at page 4669 of the Transcript, said also:

> "for the sake of the record only I would like to add that on behalf of my clients today we are content that the Board is not in a position to approve this agreed charge under Section 32, subsection (3). I think the Assistant Chief Commissioner knows what I mean."

As the said subsection of the Act relates only to the requirement that all competing carriers by rail join in an agreed charge, I can only assume that his remarks concern the Great Northern Railway in the same manner as dealt with in our decision on the Canned Goods case, 71 C.R.T.C. 39. I am not aware that the said railway serves any point in Saskatchewan, or if it did, that the position would be dealt with in any different way than in the former case, *supra.*

Counsel for Alberta, *et al.*, states that new railway equipment for carriage of automobiles will eliminate the decking charge and the reason for making the agreed charge; that the withdrawal of the present competitive tariff rates will force Chrysler Corporation to sign an agreed charge with detriment to the dealers he represents. He suggests that General Motors be asked to disclose the volume of movement now taking place by the two types of transport and suggests that such enquiries would show that at least 75 per cent of the traffic is now moving by rail; that in passing the legislation parliament intended that agreed charges should be used to improve railway revenue but not to maintain an existing position.

After full consideration of the applications and the objections we decided that they should be approved. Our Order No. 84889, dated November 3, 1954, granted such approval and we simultaneously issued Order No. 84899 fixing a charge for Morris Motors (Canada) Limited in consideration of its allegation of unjust discrimination. Subsequently, on November 23, 1954, by Order No. 85038, we also fixed a charge for The Austin Motor Company (Canada) Limited.

In reaching this decision we were of the opinion that the Applicant had shown the necessity for the making of the agreed charges, in that the competitive tariff action had failed to secure the anticipated volume of traffic and was likely to be even more unsuccessful in the future. It is possible that the Applicant may be carrying 75 per cent of General Motors traffic now, but there is no assurance that such volume will be maintained. We do not accept the suggestion that an agreed charge cannot be made for the purpose of retaining traffic.

We are of the opinion that it has been conclusively shown that sales of motor vehicles in western Canada have increased and that the relative share of the transportation thereof by railway has decreased.

We note that the main contention of the motor dealers is that they be allowed to choose the method of transportation they desire. It must be observed, however, that the dealers cannot expect to maintain such a choice of transportation services and enjoy the agreed charge rates as ordinary tariff rates. We also note however that the agreed charges approximate the charges involved in highway transport, and that the latter are in some cases somewhat lower.

The reluctance, or unwillingness of Chrysler Corporation to change its method of doing business is understandable, as is also its fear of the withdrawal of present competitive rates. Nevertheless the first mentioned feature is not one which would justify our refusing approval of the agreed charge.

As to the matter of the withdrawal of the competitive rate or the maintenance thereof, we have on numerous occasions stated that "it is entirely within the discretion of a railway company whether it will meet the competition in tolls of other transport services." (Coyne's "Railway Law of Canada" p. 414) and "In case of a rate or toll exposed to water competition, the carrier has the privilege, in its own interests, to meet such competition and reduce the toll, but it is not the shipper's privilege to demand less than reasonable tolls because of such competition, which the railway in its discretion does not choose to meet." (Ibid, p. 415).

An examination of the competitive tariffs filed with the Board, shows that the competitive rates established September 1, 1952, were designated as expiring August 31, 1953. This expiration date was subsequently extended to August 31, 1953. This expiration date was subsequently extended to August 31, 1954, October 31, 1954, November 30, 1954 and has now been extended to December 31, 1954. It cannot be said that there was any indication of intention on the part of the railways to maintain the competitive rate without subsequent review or possibly discontinuance at the indicated expiration date.

I, therefore, find myself unable to accept the argument of Counsel that the approval of the agreed charge will create unjust discrimination against Chrysler or that discrimination will be intensified by the removal of the competitive tariff rate, when it is admitted to be within the power of Chrysler to become a party to the agreed charge by an internal adjustment of its method of doing business.

General representations were made to us by opposing Counsel to the effect that the making of the agreed charges would be detrimental to transport by highway, yet other representations assert that the object to be secured by the making of the agreed charges can be attained by a competitive tariff. The anomaly of these conflicting representations must be apparent. The objective of the agreements is clearly set out therein, namely, to secure a specified portion of the shippers' traffic, and we have found that this is a justifying reason for an agreed charge in the present case. If we had concurred in the representation that the object could be secured by competitive tariff it is difficult to apprehend how one could visualize a greater or lesser detriment to highway transport by one method rather than the other.

There remains but one point to comment upon—the effect on the net revenue of the carrier. Our economic staff has tested the submission made in the application respecting the compensatory nature of the proposed agreed charge and we are satisfied that no burden is cast upon other traffic by the making of the agreements. For the purpose of this application we consider that the rates proposed are compensatory.

Our Order having issued approving the application, no further action is now necessary.

OTTAWA, December 13, 1954.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

GENERAL ORDER No. 804

In the matter of cleaning of stations and disinfecting of passenger cars:

File No. 1708·3

WEDNESDAY, the 8th day of December, A.D. 1954.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that every railway company subject to the jurisdiction of the Board be, and it is hereby directed and required:

(1) To maintain all its passenger stations, waiting rooms, toilet and lavatory facilities, clean and well ventilated; to keep said facilities in a sanitary condition.

(2) To maintain all its passenger carrying cars, when in service, including the toilet and lavatory facilities, smoking and other compartments of such cars, in a clean and sanitary condition, properly ventilated, heated and lighted.

(3) To adopt a By-law (if no such By-law has already been adopted), under section 293 of the Railway Act, prohibiting spitting in passenger stations, waiting rooms, toilet and lavatory facilities, or other premises of the company and in or upon the platforms of cars in which passengers may travel, except in receptacles suitable for the purpose, and to provide a penalty for breach thereof; and to post up and maintain in a conspicuous place in its passenger stations and in such places in the cars in which passengers may travel, where deemed necessary, a notice of such By-law and the penalty for breach thereof; such notices in the Province of Quebec to be printed in French and English.

(4) To provide and maintain cuspidors and ash receptacles in such places in its passenger stations and passenger cars, where deemed necessary by the responsible railway officers; and to have such cuspidors emptied and washed clean whenever necessary, but at least once in every forty-eight hours.

(5) To take all necessary precautions to see that cases of known contagious diseases are reported immediately to the responsible railway officials, and to clean thoroughly and disinfect all cars known or suspected to have carried any passenger suffering from contagious disease.

(6)(*a*) To transport known tuberculosis patients in room accommodation of railway cars where such cars are regularly operated and when such space is available.

Where railway cars with room accommodation are not operated or when such space is not available, to accommodate such patients in baggage car when possible, in which event such patients must be accompanied by an attendant and standard form of release executed on behalf of such patients and attendants.

To refuse to transport in open space of passenger carrying equipment a patient known to be suffering from tuberculosis.

(6)(*b*) To refuse to transport a patient known to be suffering from tuberculosis unless such patient shows satisfactory evidence that he has been duly instructed by appropriate medical authorities regarding the usual precautions to prevent dissemination of the disease, including the collection and disposal of sputum, and is in possession of:

(1) a sputum cup made of impervious material and so constructed as to admit of being tightly closed when not in use;

(2) a sufficient supply of gauze, paper or similar articles of proper size to cover the mouth and nose while coughing or sneezing;

(3) a heavy bag or other type of container for receiving the soiled gauze, paper or similar articles; and the patient undertakes to arrange for the destruction of the above articles by burning or disinfection.

(7) To ensure, where a tuberculosis patient is transported and requires meal service from railway sources, that:

(*a*) all meals are supplied in such patients' accommodation, and that all dishes, cutlery, etc., so used, are kept in that accommodation until the completion of the meal;

(*b*) all such dishes, cutlery, etc., are collected by a railway attendant at the completion of the meal, and are kept segregated from other dishes, until they are properly sterilized by subjecting them to live steam sterilization, or, if steam is not available, by immersion in boiling water for at least three minutes, before being put into use again;

(*c*) all railway bedclothing, including blankets and linen, are removed and laundered before again being used;

(*d*) accommodation quarters are damp cleaned with a detergent solution containing a disinfectant before re-occupancy.

And it is further ordered that General Order No. 778, dated January 5, 1953, be, and it is hereby, rescinded.

A. SYLVESTRE,
Deputy Chief Commissioner,
The Board of Transport Commisisoners for Canada.

ORDER No. 85299

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) No. 76:

File No. 40994·60

THURSDAY, the 6th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) No. 76 on file with the Board under file No. 40994·60, be, and it is hereby, approved; and that the date as from which the said Supplement No. 4 shall be deemed to have become operative is hereby fixed as November 29, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85305

In the matter of the application of the Canadian Freight Association, dated November 29, 1954, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated November 29, 1954, between the Canadian National Railways, the Canadian Pacific Railway Company and British American Oil Company, Limited, Hi-Way Refineries Limited, North Star Oil Limited and Saskatchewan Federated Co-Operatives Limited on Liquefied Petroleum Gas, in tank cars, from Moose Jaw, Regina, St. Boniface and Saskatoon to destinations in Western Canada:

File No. 40994·70

FRIDAY, the 7th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge on file with the Board under file No. 40994·70 and attached to the said application between the Canadian National Railways, the Canadian Pacific Railway Company and British American Oil Company Limited, Hi-Way Refineries Limited, North Star Oil Limited and Saskatchewan Federated Co-Operatives Limited, on Liquefied Petroleum Gas, in tank cars, from Moose Jaw, Regina, St. Boniface and Saskatoon to destinations in Western Canada be, and it is hereby approved; and the Board hereby fixes the 30th day of November, 1954, as the date from which the said agreed charge shall be deemed to have become operative and to continue in effect subject to Condition 6 thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, NOVEMBER, 1954.

Railway Accidents	181	Killed	13	Injured	194
Level Crossing Accidents....	45	Killed	5	Injured	67
Total	226	Killed	18	Injured	261

	Killed	*Injured*
Passengers	1	21
Employees	7	161
Others	10	79
Total	18	261

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Newfoundland

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Nfld. 20730.

Nova Scotia

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 89-858.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 1039-78.

New Brunswick

—	1	Automobile ran into side of train. Licence: N.B. 33-811.
—	2	Station wagon ran into side of train. Licence: N.Y. 24000.

Quebec

1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 378073.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 427568.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-47766.
—	1	Automobile ran into side of train. Licence: Que. 426738.
—	5	Auto truck ran into side of train. Licence: Que. E-71305.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. N-16882.
—	2	Automobile ran into side of train. Licence: R.I. G-6542.

Ontario

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 941-B.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. K-3239.
—	3	Automobile ran into side of train. Ont. JC-520.
—	1	Automobile ran into side of standing train. Licence: Ont. 54-G-1.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-7938.
—	2	Automobile ran into side of train. Licence: Ont. 711-R-6.
—	2	Automobile ran into side of train. Licence: Ont. LZ-163.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 4-L-625.

Killed	*Injured*	
—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 81-30-Z.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 656-V.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 6674-B.
—	2	Automobile ran into side of train. Licence: Ont. AN-886.
—	5	Automobile ran into side of train. Licence: Ohio NW-948.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. J-2255.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-15889.
—	2	Auto truck ran into side of Budd car. Licence: Ont. 89478-B.
—	1	Automobile ran into side of train. Licence: Ont. 323-V-6.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. P-3101.
—	1	Automobile ran into side of train. Licence: Ont. 9-Y-364.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 80-385-C.

MANITOBA

—	1	Automobile ran into side of train. Licence: Man. 4-3-503.
—	1	Auto truck ran into side of train. Licence: Man. T-11268.
—	1	Auto truck ran into side of train. Licence not given.

SASKATCHEWAN

1	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 16-6730.
—	2	Automobile ran into side of train. Licence: Sask. 37083.
—	2	Automobile ran into side of train. Licence not given.
—	1	Automobile drove onto crossing in front of backing engine and was struck. Licence: Sask. 22-517.
—	1	Automobile ran into side of train. Licence: Sask. 131-948.

ALBERTA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. X-63-693.
—	1	Automobile drove onto crossing in front of cars being pushed over crossing and was struck. Licence: Alta. YL-743.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.

BRITISH COLUMBIA

—	1	Auto truck ran into standing track motor car. Licence: B.C. C-54-259.
—	1	Automobile ran into side of train. Licence: B.C. T1-176.

Of the 45 accidents at highway crossings, 42 occurred at unprotected crossings, and 3 at protected crossings. Thirteen occurred after sunrise and thirty-two after sunset.

OTTAWA, Ontario, January 7, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85203 Dec. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R tracks at Wadena, Saskatchewan.

85204 Dec. 17—Permitting the removal of slow order at C.P.R. crossing of 55th Avenue, Lachine, Quebec.

85205 Dec. 17—Approving proposed location of storage tank, etc., of Strudie Propane Limited, near the tracks of the Northern Alberta Railways Company, near Grimshaw, Alberta.

85206 Dec. 21—Authorizing the Department of Public Works of the Province of Manitoba, to construct the highway across the C.P.R. at mileage 75·13 Bredenbury Subdivision, Manitoba.

85207 Dec. 21—Permitting the removal of slow order at C.P.R. crossing at mileage 84·05 Taber Subdivision, Alberta.

85208 Dec. 21—Authorizing The T. H. and B. Railway Company to remove the station agent and station building at Grassies, Ontario.

85209 Dec. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at mileage 16·42 Rossland Subdivision, British Columbia.

85210 Dec. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Allan, Saskatchewan.

85211 Dec. 21—Authorizing the New Brunswick Department of Public Works to relocate the highway where it crosses the C.N.R. at mileage 7·49 Havelock Subdivision, New Brunswick.

85212 Dec. 21—Authorizing The Hydro-Electric Power Commission of Ontario to cross the C.N.R. with a transmission line near Fourth Street, Midland, Ontario.

85213 Dec. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Amaranth, Manitoba.

85214 Dec. 21—Permitting the removal of slow order at C.N.R. crossing of Tiffin Road, east of the station at St. Lambert, Quebec.

85215 Dec. 21—Authorizing the C.P.R. to operate its trains over its Nephton Subdivision between mileage 0·0 and mileage 16·5, Ontario.

85216 Dec. 21—Permitting the removal of slow order at C.N.R. crossing of Erin Street, Saint John, New Brunswick.

85217 Dec. 21—Permitting the removal of slow order at C.N.R. crossing north of the siding at Thornlea, Ontario.

85218 Dec. 22—Extending the time within which it was required to construct an industrial track, to be constructed by the C.P.R., required by Order No. 83987 dated June 21, 1954, Calgary, Ontario.

85219 Dec. 22—In the matter of the application of the City of St. Thomas, Ontario, for a review by the Board of its Order No. 84570, dated September 20, 1954, which authorized the C.N.R. to install automatic protection to replace the existing manually operated gates at the crossing of Manitoba Street, St. Thomas, Ontario.

85220 Dec. 22—Approving proposed location of storage tank, etc., of Pino Propane Limited, near the C.N.R. tracks at Mont Joli, Quebec.

85221 Dec. 22—Approving proposed location of storage tanks, etc., of Home Oil Distributors Limited, near the C.N.R. tracks at Prince George, British Columbia.

85222 Dec. 22—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada, Limited, near the C.N.R. tracks at St. Lambert, Quebec.

85223 Dec. 22—Authorizing the C.P.R. to construct a timber trestle over Pile of Bones Creek, mileage 8, Mitford Subdivision, Alberta.

85224 Dec. 22—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Edam, Saskatchewan.

85225 Dec. 22—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85226 Dec. 22—Approving the operation of the C.N.R. trains over private siding serving the new industrial area under development at Barrie, Ont.

85227 Dec. 22—In the matter of changes in the protection at the crossing of the C.N.R. and Depot Street, Grimsby, Ontario.

85228 Dec. 22—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 84190, dated July 21, 1954, to install certain protection at crossing of Westbrooke Road, east of station at Collins Bay, Ontario.

85229 Dec. 23—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Phippen Station, Saskatchewan.

85230 Dec. 23—Authorizing the C.N.R. to make changes to the interlocker at the Grand Narrows Bridge, Nova Scotia.

85231 Dec. 23—Permitting the removal of slow order at C.N.R. crossing of Sherbrooke Street, Montreal East, Quebec.

85232 Dec. 23—Permitting the removal of slow order at C.P.R. crossing of Highway No. 13, east of the station at Trossachs, Saskatchewan.

85233 Dec. 23—In the matter of rates on lumber and related articles in tariffs filed with the Board to become effective January 1, 1955.

85234 Dec. 23—Authorizing the C.N.R. to remove the signals and signalman at the crossing of their railway and the railway of the C.P.R. at Renfrew Junction, Ontario.

85235 Dec. 23—Permitting the removal of slow order at C.N.R. crossing at mileage 95·83 Chatham Subdivision, Ontario.

85236 Dec. 23—Authorizing the Town of Acton Vale, Quebec, to widen and maintain Market Street where it crosses the C.N.R. in the Town of Acton Vale, Quebec.

85237 Dec. 23—Authorizing the Bell Telephone Company to construct its lines of telephone along, across, under and over a public highway in the Township of Harwich, County of Kent, Ontario.

85238 Dec. 23—Authorizing the Town of Windsor to construct a sewer pipe line under the main line and siding of the Dominion Atlantic Railway Company, Windsor, Nova Scotia.

85239 Dec. 23—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85240 Dec. 23—Approving Appendix to Traffic Agreement between the Bell Telephone Company and Téléphone d'Harricana et Gatineau Limitée.

85241 Dec. 23—Approving proposed location of storage tanks, etc., Canadian Petrofina Limited near C.N.R. tracks at Sherbrooke, Quebec.

85242 Dec. 23—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Storthoaks, Saskatchewan.

85243 Dec. 23—Approving proposed location of storage tanks, etc., of P. M. Fleming Limited, near C.N.R. tracks at Senneterre, Quebec.

85244 Dec. 24—Permitting the removal of slow order at C.N.R. crossing of Sophia Street, Prescott, Ontario.

85245 Dec. 24—Permitting the removal of slow order at C.P.R. crossing west of the station at Cavan, Ontario.

85246 Dec. 24—Approving less than standard clearances at the siding serving Ralston-Purina Company of Canada, Limited, Woodstock, Ontario. (C.N.R.).

85247 Dec. 24—Approving Supplement to Northern Freight Classification on file under tariff file B.Y.R. Co. C.T.C. No. 45.

85248 Dec. 24—In the matter of Order No. 84880, which authorized the County of Welland, Ontario, to construct West Side Road across the Michigan Central Railway, at mileage 14·58 Canada Division, and in the matter of the apportionment of the costs of the said overhead bridge.

85249 Dec. 27—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Outlook Subdivision, Saskatchewan.

85250 Dec. 27—In the matter of the application of the Bell Telephone Company for leave to construct its lines of telephone along and over the C.N.R. at Burlington Beach, Ontario.

85251 Dec. 27—In the matter of the application of Trans-Canada Pipe Lines Limited for an Order extending the period for satisfying the Board that satisfactory arrangements have been completed for financing the construction and obtaining necessary licences in respect of its proposed company pipe line, for which leave to construct was granted by Order No. 84220, dated July 24, 1954.

85252 Dec. 28—Relieving the Burrard Inlet Tunnel and Bridge Company from erecting right-of-way fencing, etc., on that part of its railway situated in the District of North Vancouver and the City of North Vancouver, British Columbia.

85253 Dec. 28—Authorizing the City of Winnipeg to widen at its own expense Poplar Avenue where it crosses the C.P.R. between Stadacona and Levis Streets, Winnipeg, Manitoba.

85254 Dec. 28—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85255 Dec. 28—Authorizing the New York Central Railroad Company to remove the caretaker at Edwards, Ontario.

85256 Dec. 28—Authorizing the New York Central Railroad Company to remove the caretaker at Berwick, Ontario.

85257 Dec. 28—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Halton Telephone Company Limited.

85258 Dec. 28—In the matter of changes in the rate grouping of certain telephone exchanges of the British Columbia Telephone Company.

85259 Dec. 28—Approving Supplement to Traffic Agreement between the Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Brighton.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV FEBRUARY 15, 1955 No. 22

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ORDER No. 85386

In the matter of the application of The Canadian Freight Association for approval of proposed Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525:

File No. 33365·157

WEDNESDAY, the 19th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Order of the Board No. 83242, dated March 1, 1954, prescribed a uniform scale of mileage class rates for application not later than March 1, 1955, and a contemporaneous revision of the Canadian Freight Classification was thereby required;

And Whereas proof copies of the proposed Canadian Freight Classification No. 20 and copies of the notice of the submission thereof have been filed with the Board and delivered in accordance with the Board's General Order No. 695 and the said notice has been forwarded to the Queen's Printer for publication in the next two issues of the *Canada Gazette*—

It is ordered

1. That, pursuant to Section 325 of the Railway Act, Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525, to govern tariffs of tolls for freight traffic is hereby approved.

2. That the publication of the said Classification without observing the provisions of paragraph 3 of General Order No. 695 is hereby authorized.

99428—1

3. That in all respects the said Classification shall be subject to complaint and investigation in accordance with the provisions of the Railway Act and the Board's Rules of Practice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85419

In the matter of the application of the Canadian Freight Association, dated January 12, 1955, for approval of Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 46:

File No. 40994·35

MONDAY, the 24th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon consideration of the submissions filed—

It is ordered that the said Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 46 be, and it is hereby, approved, and that the date from which the said Supplement No. 7 shall become operative is hereby fixed as January 28, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85420

In the matter of the application of the Canadian Freight Association, dated January 20, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 48:

File No. 40994·37

MONDAY, the 24th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon consideration of the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 48 be, and it is hereby, approved, and that the date from which the said Supplement No. 4 shall become operative is hereby fixed as January 28, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85421

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, the Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951:

File No. 40994·35

MONDAY, the 24th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Imperial Oil Limited, North Star Oil Limited, Husky Oil and Refining Limited, Royalite Hi-Way Limited, and Saskatchewan Federated Co-Operatives Limited have made application under subsection (8) of Section 32 of the Transport Act, representing to the Board that their business will be unjustly discriminated against unless charges be fixed for the transport of their petroleum products to points in the Province of Manitoba, from Regina and Saskatoon, Saskatchewan, and from Lloydminster, Alberta/Saskatchewan, in respect of Agreed Charge C.T.C. (AC) No. 46:

It is ordered that charges be, and they are hereby, fixed for the transport by the Canadian National Railways and Canadian Pacific Railway Company, of petroleum products as described in paragraph B of Agreed Charge C.T.C. (AC) No. 46, for Imperial Oil Limited, North Star Oil Company Limited, Husky Oil and Refining Limited, Royalite Hi-Way Limited, and Saskatchewan Federated Co-Operatives Limited to points in the Province of Manitoba, from the points, and to the extent, set out in paragraphs numbered 1 and 2 of this Order; such charges, so fixed, to be subject to and upon the terms and conditions contained in Agreed Charge C.T.C. (AC) No. 46:

1. From REGINA and SASKATOON, Saskatchewan, to points in the Province of Manitoba: EXCEPT stations on the Canadian National Railways taking Index numbers 3189, and 9082 to 9088 inclusive, in Canadian Freight Association (Western Lines) Tariff No. 209, Agent J. F. Flynn's C.T.C. No. 540:

Distances in miles	*Cents per 100 lbs.*	*Distances in miles*	*Cents per 100 lbs.*	*Distances in miles*	*Cents per 100 lbs.*
160	34	300	47	420	58
170	36	330	49	430	59
190	37	340	50	440	60
200	38	350	51	460	62
210	39	360	53	485	65
240	41	380	54	535	67
260	42	410	57	560	71
280	44				

Where charge is not shown for exact distance apply charge for next greater distance.

2. From LLOYDMINSTER, Alberta-Saskatchewan, to points in the Province of Manitoba: EXCEPT stations on the Canadian National Railways taking Index numbers 3189, and 9082 to 9088 inclusive, in Canadian Freight Association (Western Lines) Tariff No. 209. Agent J. F. Flynn's C.T.C. No. 540:

Distances in miles	*Cents per 100 lbs.*	*Distances in miles*	*Cents per 100 lbs.*	*Distances in miles*	*Cents per 100 lbs.*
410	57	460	62	625	75
420	58	485	65	650	76
430	59	535	67	680	79
440	60	585	71		

Where charge is not shown for exact distance apply charge for next greater distance.

It is further ordered that the Board hereby appoints the 28th day of January, 1955, as the date on which the said charges fixed as aforesaid are to come into operation.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85422

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951:

File No. 40994·35

MONDAY, the 24th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Husky Oil and Refining Limited has made application under subsection (8) of Section 32 of the Transport Act and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Moose Jaw, Saskatchewan, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge:

It is ordered that the Agreed Charges approved by the said Order No. 77946, dated December 15, 1951, be, and they are hereby, fixed for the transport, by the said Canadian National Railways and Canadian Pacific Railway Company, of petroleum products as described in paragraph B of the said Agreed Charge for Husky Oil and Refining Limited from Moose Jaw, Saskatchewan, to the stations referred to in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges fixed as aforesaid are to come into operation.

It is further ordered that Order No. 79133, dated June 5, 1952, be, and it is hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85424

In the matter of the application of The Canadian Freight Association for approval of proposed Supplement No. 1 to proposed Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525:

File No. 33365·167

MONDAY, the 24th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Order of the Board No. 83242, dated March 1, 1954, prescribed a uniform scale of mileage class rates for application not later than March 1, 1955, and a contemporaneous revision of the Canadian Freight Classification was thereby required;

And whereas proof copies of the proposed Supplement No. 1 to proposed Canadian Freight Classification No. 20 and copies of the notice of the submissions thereof have been filed with the Board and delivered in accordance with the Board's General Order No. 695 and the said notice has been forwarded to the Queen's Printer for publication in the next two issues of the *Canada Gazette*—

It is ordered

1. That, pursuant to Section 325 of the Railway Act, Supplement No. 1 to Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525, to govern tariffs of tolls for freight traffic is hereby approved.

2. That the publication of the said Supplement No. 1 to the said Classification without observing the provisions of paragraph 3 of General Order No. 695 is hereby authorized.

3. That in all respects the said Supplement No. 1 to the said Classification shall be subject to complaint and investigation in accordance with the provisions of the Railway Act and the Board's Rules of Practice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, DECEMBER, 1954

Railway Accidents	177	Killed	12	Injured	176
Level Crossing Accidents....	61	Killed	29	Injured	83
Total.....	238	Killed	41	Injured	259

	Killed	*Injured*
Passengers	1	31
Employees	5	131
Others	35	97
	41	259

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEWFOUNDLAND
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Nfld. 2-2554.
		NOVA SCOTIA
—	1	Auto truck struck track motor car. Licence not given.
		NEW BRUNSWICK
3	2	Automobile ran into side of train. Licence: N.B. 56-228.
		QUEBEC
—	1	Automobile ran into side of train. Licence: Que. 221-400.
—	2	Pedestrians walked onto crossing in front of approaching train and were struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 427-710.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-87585.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 424-183.
3	2	Automobile ran into side of train. Licence: Que. 339-510.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 307-391.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 167-516.
—	1	Auto truck ran into side of train. Licence: Que. F-23533.
—	1	Dump truck ran into side of train. Licence: Que. S-65359.
3	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-68823.
1	—	Transport truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-14209.
		ONTARIO
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-77497.
—	1	Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-25517.
—	2	Station wagon drove onto crossing in front of approaching train and was struck. Licence: Ont. X-7101.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 34-K-7.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. E-2034.

Killed	*Injured*	ONTARIO—*Continued*
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 96-X-81.
3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 832-A-1.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 606-G-6.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. JP-979.
—	1	Automobile ran into side of train. Licence: Ont. 812-N-3.
—	2	Snow plow truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 1929-B.
—	2	Transport truck ran into side of train. Licence: Ont. 75-946.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. DD-701.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. L-5192.
—	1	Pedestrian slipped in front of train and was struck.
—	1	Automobile ran into side of train. Licence: Ont. BG-328.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 838-M-4.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. R-6101.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 103810.
—	1	Automobile ran into side of train. Licence: Ont. 1625-J.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-7645.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 3-W-142.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 211-J-3.
—	1	Automobile ran into side of train. Licence: Ont. 2-T-846.
—	1	Automobile ran into side of train. Licence: Ont. 702-L.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 94503-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. E-467.
1	—	Trailer tractor drove onto crossing in front of approaching train and was struck. Licence: Ont. C-14652.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 98470-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 840-N-2.
		MANITOBA
3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 3-J-138.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 9-W-671.
		SASKATCHEWAN
—	8	Automobile ran into side of train. Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 77105.
—	1	Road grader drove onto crossing in front of approaching train and was struck.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-66339.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 69477.

Killed	*Injured*	
		ALBERTA
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. X-53115.
—	3	Automobile ran into side of train. Licence not given.
1	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. PN-274.
—	2	Automobile ran into side of train. Licence: Man. 18-V-47.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. HN-655.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. MX-142.
—	2	Auto truck ran into side of train. Licence: Alta. X-63340.
		BRITISH COLUMBIA
2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 2-R-680.

Of the 61 accidents at highway crossings, 48 occurred at unprotected crossings, and 13 at protected crossings. Twenty-four occurred after sunrise and thirty-seven after sunset.

OTTAWA, Ontario, January 31, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85260 Dec. 29—Authorizing the Algoma Central and Hudson Bay Railway Co. to replace the existing timber bridge over the Mattawishquaia River, Township of Templeton, Ontario.

85261 Dec. 29—Authorizing the Atlantic Sugar Refineries Limited to install pipe crossings under the C.N.R. siding serving the Atlantic Sugar Refineries Limited.

85262 Dec. 22—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along highway in the Township of Chatham, Ontario.

85263 Dec. 29—Approving proposed location of storage tank, etc. of British American Oil Company, Limited, near C.N.R. tracks at Chicoutimi, Quebec.

85264 Dec. 29—Permitting the removal of slow order at C.P.R. crossing west of station at Swift Current, Saskatchewan.

85265 Dec. 29—Approving proposed location of storage tank, etc. of C. Schneider and Company near C.N.R. tracks at Stratford, Ontario.

85266 Dec. 29—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of pipe lines, storage tank, etc. at London, Ontario, and in the matter of amending Order No. 85087, dated December 1, 1954.

85267 Dec. 29—Authorizing the C.N.R. to make certain changes in the automatic block signal system necessitated by the installation of a spur at mileage 6·5 Kashabowie Subdivision near Fort William, Ontario.

85268 Dec. 30—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under Section 8.

85269 Dec. 30—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

85270 Dec. 30—Permitting the removal of slow order at C.N.R. crossing east of Lakeview, Ontario.

85271 Dec. 30—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Corporation of the Township of Medonte.

85272 Dec. 30—Permitting the removal of slow order at C.P.R. crossing two miles east of the City of Chatham, Ontario.

85273 Dec. 30—Permitting the removal of slow order at C.N.R. crossing north of station at Hilden, Nova Scotia.

85274 Dec. 30—Approving proposed location of pumping facilities, etc. of Imperial Oil Limited near C.N.R. tracks at Morell, Prince Edward Island.

85275 Dec. 30—In the matter of the application of the C.P.R. for an Order amending Order No. 85115, which approved the location of connecting pipe lines and storage tank at Thetford Mines, Quebec.

85276 Dec. 30—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Irvine, Alberta.

85277 Dec. 30—Approving proposed location of storage tanks, etc. of Canadian Oil Companies Limited near C.N.R. tracks at Granby, Quebec.

85278 Dec. 30—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Leeds and Frontenac Rural Telephone Company Limited.

85279 Dec. 30—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Derby Telephone Company Limited.

85280 Dec. 30—Authorizing the City of Toronto, Ontario, to construct Dundas Street East extension across the sidings of the C.N.R. serving Colgate Palmolive Company, Limited, and the William Wrigley Junior Company, Limited, Toronto, Ontario.

85281 Dec. 31—Permitting the removal of slow order at C.P.R. crossing just south of the station at Beeton, Ontario.

85282 Dec. 31—Permitting the removal of slow order at C.P.R. crossing west of station at Hornby, Ontario.

85283 Dec. 31—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Alberton, Prince Edward Island.

85284 Jan. 3—In the matter of the application of the C.P.R. for approval of plan showing automatic protection as installed at the crossing of its railway and Highway No. 69, near Bala, Ontario, in lieu of plan which was approved under Order No. 84297.

85285 Jan. 3—Requiring the Quebec Central Railway Company to install two flashing light signals and one bell at the crossing of Johnson Street, Thetford Mines, Quebec.

85286 Jan. 3—Authorizing the C.N.R. to operate under the bridge at Portage Road, Township of Stamford, Ontario.

85287 Jan. 3—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.N.R. under Sections 3 and 8.

85288 Jan. 3—In the matter of the application of the C.N.R. on behalf of Imperial Oil Limited for an extension of temporary permit to load crude oil into tank cars from tank trucks at Smiley, Saskatchewan.

85289 Jan. 3—In the matter of the application of the C.N.R. on behalf of Imperial Oil Limited for an extension of temporary permit to load crude oil into tank cars from tank trucks at Smiley, Saskatchewan. (Amends Order No. 83681).

85290 Jan. 4—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at crossing of the C.N.R. and C.P.R. at Carlyle, Saskatchewan.

85291 Jan. 4—In the matter of approval of plan submitted by the C.N.R. showing proposed location of pipe lines, etc. at Boston Bar, British Columbia.

85292 Jan. 4—Approving operation of the Great Northern Railway Company's trains over the private siding serving George Weston Company, Limited, Vancouver, British Columbia.

85293 Jan. 11—Approving plan showing approach grades at the crossing of the C.N.R. and Ethelbert Street, Sudbury, Ontario.

85294 Jan. 4—Authorizing the C.N.R. to make signal changes to the Queen's Wharf Interlocker, Toronto Terminals, Ontario.

85295 Jan. 4—Permitting the removal of slow order at C.N.R. crossing east of station at Prince George, British Columbia.

85296 Jan. 4—In the matter of changes in rate grouping of certain exchanges of the Bell Telephone Company of Canada.

85297 Jan. 5—Approving operation of C.P.R. trains over the private siding serving Alberta Ytong Manufacturing Company Limited, Calgary, Alberta.

85298 Jan. 5—Authorizing the C.P.R. to construct a siding across 8th Avenue, Moose Jaw, Saskatchewan.

85299 Jan. 6—Approving Supplement No. 4 to Agreed Charge Tariff C.T.C. (AC) No. 76 upon application of the Canadian Freight Association.

85300 Jan. 6—Approving plan in lieu of plan previously approved under Order No. 83502.

85301 Jan. 6—Relieving the C.P.R. from erecting and maintaining cattle guards at certain highway crossings on its McAuley Subdivision, Manitoba.

85302 Jan. 6—Authorizing Alberta Department of Highways to widen the highway where it crosses the C.N.R. at mileage 123·41, Coronado Subdivision, Alberta.

85303 Jan. 6—Relieving the C.P.R. from erecting and maintaining cattle guards at certain highway crossings on its Neudorf Subdivision, Manitoba.

85304 Jan. 7—In the matter of the application of the C.P.R. for a licence under section 10 of the Transport Act.

85305 Jan. 7—Approving Agreed Charge between the C.N.R., C.P.R., British American Oil Company, Limited, and certain other Oil Companies on Liquefied Petroleum Gas in tank cars, from Moose Jaw, Regina, St. Boniface and Saskatoon to destinations in Western Canada.

85306 Jan. 7—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

85307 Jan. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Penticton, British Columbia.

85308 Jan. 7—Permitting the removal of slow order at C.N.R. crossing north of the north switch of the north storage track at Canora, Saskatchewan.

85309 Jan. 7—Permitting the removal of slow order at C.N.R. crossing west of station at Atwater, Saskatchewan.

85310 Jan. 7—Permitting the removal of slow order at C.N.R. crossing of east switch at Gladstone, Manitoba.

85311 Jan. 7—Approving proposed location of storage tanks, etc. of Canadian Petrofina Limited near C.N.R. tracks at Roberval, Quebec.

85312 Jan. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Hamiota, Manitoba.

85313 Jan. 7—Permitting the removal of slow order at C.P.R. crossing of 61st Avenue South and the C.P.R. in the City of Calgary, Alberta.

85314 Jan. 7—Permitting the removal of slow order at C.P.R. crossing of Beech Street, Ottawa, Ontario.

85315 Jan. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Glendon, Alberta.

85316 Jan. 7—Authorizing the C.N.R. to install an interlocker for the swing span across the Lock Basin at Canso Causeway, Nova Scotia.

85317 Jan. 7—Approving proposed location of storage tanks, etc. of Canadian Petrofina Limited near C.N.R. at Victoriaville, Quebec.

85318 Jan. 7—In the matter of approval of plan submitted to the C.N.R. showing proposed location of facilities for the loading of crude oil from tank trucks to tank cars at Chinook, Alberta.

85319 Jan. 7—In the matter of tariffs filed under the Maritime Freight Rates Act and Order No. 84896, which approved tolls published in Tariff C.T.C. No. E. 5117 filed by the C.P.R.

85320 Jan. 10—Authorizing the C.N.R. to construct a bridge over a stream at mileage 21·9, Brampton Subdivision, Ontario.

85321 Jan. 10—Approving proposed location of storage tanks, etc. of Trinidad Leaseholds (Canada) Limited near C.N.R. tracks at Port Credit, Ontario.

85322 Jan. 10—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.N.R. tracks at Kane, Manitoba.

85323 Jan. 10—Approving proposed location of Quebec North Shore and Labrador Railway Company line of railway at mileage 340 to 356·8, Province of Quebec.

85324 Jan. 10—Approving revised Appendix to Traffic Agreement between the Bell Telephone Company of Canada and Le Téléphone de St. Ours Enrg.

85325 Jan. 10—Approving Exhibit No. 2 to Mobile Telephone Service Agreement, dated December 2, 1952, between the Bell Telephone Company of Canada and the Michigan Bell Telephone Company.

85326 Jan. 10—Approving Appendix to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie du Téléphone Saguenay-Québec.

85327 Jan. 10—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Manilla Union Telephone Company Limited.

85328 Jan. 11—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Cabano, Quebec.

85329 Jan. 11—Approving proposed location of storage tanks, etc. of the Electric Reduction Company of Canada Limited near C.N.R. tracks at Varennes, Quebec.

85330 Jan. 11—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Biggar, Saskatchewan.

85331 Jan. 11—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 8

85332 Jan. 11—Approving tolls published in Tariff C.T.C. No. 1531 filed by the Canadian Freight Association under sections 3 and 8 of the Maritime Freight Rates Act.

85333 Jan. 11—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near the C.N.R. tracks at Bresaylor, Saskatchewan.

85334 Jan. 11—Amending Order No. 85068, dated November 25, 1954, which authorized the C.P.R. to construct a branch line to serve the Potash Company of America Limited near Cheviot Station, Saskatchewan.

85335 Jan. 11—Approving revised plan showing changes on signals at C.N.R. crossing of Fifth Avenue, Ville St. Pierre, Quebec.

85336 Jan. 11—Permitting the removal of slow order at the Chesapeake & Ohio Railway crossing of Wigle Road, east of station at Kingsville, Ont.

85337 Jan. 11—Permitting the removal of slow order at Chesapeake & Ohio Railway crossing of Church Lane, north of Courtright, Ontario.

85338 Jan. 11—Authorizing the C.P.R. to construct a siding to serve Horton Steel Works Limited across 30th Street North and 2nd Avenue North, Lethbridge, Alberta.

85339 Jan. 11—Permitting the removal of slow order at C.P.R. crossing known as Wyton Road Crossing at mileage 108·26 Galt Subdivision, Ontario.

85340 Jan. 11—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

85341 Jan. 12—Approving revised plan showing protection as installed at Regina, Saskatchewan, mileage 92·4 Indian Head Subdivision.

85342 Jan. 12—Authorizing Wainwright Producers and Refiners Ltd. to construct pipe crossings under the C.N.R. siding serving the applicant at Wainwright, Alberta.

85343 Jan. 12—Authorizing the C.N.R. to open for the carriage of traffic their railway line from Terrace to Kitimat, British Columbia.

85344 Jan. 12—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85345 Jan. 12—Permitting the removal of slow order at C.N.R. crossing of Trafalgar Road at Bronte, Ontario.

85346 Jan. 12—Authorizing the California Standard Company to construct a pipe line across the right-of-way of the Interprovincial Pipe Line Company in the N.W. quarter of Section 14-9-Rge. 28-WPM, Manitoba.

85347 Jan. 12—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the C.N.R. under sections 3 and 8.

85348 Jan. 12—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85349 Jan. 12—Permitting the removal of slow order at C.N.R. crossing of Cote de Liesse Road, Ville St. Laurent, Quebec.

85350 Jan. 12—Approving proposed location of storage tank of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Orillia, Ontario.

85351 Jan. 12—Approving proposed location of storage tanks, etc. near C.P.R. tracks at Winnipeg, Man., to serve Central Gas Company.

85352 Jan. 12—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Grand Forks, British Columbia.

85353 Jan. 12—Permitting the removal of slow order at C.P.R. crossing, first crossing north of the C.N.R.-C.P.R. interlocking plant at Neepawa, Manitoba.

85354 Jan. 12—Approving proposed location of storage tanks, etc. of C.N.R. near their tracks at Blue River, British Columbia.

85355 Jan. 13—Permitting the removal of slow order at C.N.R. crossing of Highway No. 2 at Marysville, Ontario.

85356 Jan. 13—Authorizing the British Columbia Electric Railway Company, Limited, to remove the automatic interlocker authorized by Order No. 37632, the diamond in the Great Northern Railway Company's track, and the rails of the main track of the Burnaby Lake Line of the British Columbia Electric Company Limited, for a distance of 100 feet on each side of the Great Northern Railway Company's track at Ardley, British Columbia.

85357 Jan. 13—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Lake Windermere Subdivision, British Columbia.

85358 Jan. 13—Authorizing the C.P.R. to construct a siding to serve Western Plywood Company Limited across South Kent Street, Vancouver, B.C.

85359 Jan. 13—Authorizing the C.N.R. to construct one additional track across Highbury Avenue, London, Ontario.

85360 Jan. 13—Authorizing The International Nickel Company of Canada, Limited, to cross the C.P.R. with an overhead trestle constructed to carry a pipe line at mileage 5·44 Webbwood Subdivision, and mileage 0·85 Pyrrhotite Spur, Copper Cliff, Ontario. (C.P.R.)

85361 Jan. 13—Authorizing The Crow's Nest Pass Coal Company, Limited, to construct a mine portal and a drainage level portal within the boundary of the C.P.R., at mileage 12·8 Cranbrook Subdivision, British Columbia.

85362 Jan. 13—Approving proposed location of pipe lines, etc. of the Green River Exploration Company Limited near the C.P.R. tracks at Calmar, Alberta.

85363 Jan. 13—Authorizing the C.P.R. to remove the agent at Frank, Alberta.

85364 Jan. 13—Approving proposed location of storage tanks, etc. of Canadian Petrofina Limited, near the C.N.R. tracks at Val d'Or, Quebec.

85365 Jan. 14—Dismissing the application of the Elgin Board of Trade for an Order directing the C.N.R. to restore the station at Elgin, Ontario.

85366 Jan. 14—Permitting the removal of slow order at C.N.R. crossing west of the station at Cross Point, Quebec.

85367 Jan. 14—Approving proposed location of storage tanks, etc. of Cities Service Oil Company Limited, near the C.N.R. tracks at Hawkesbury, Ont.

85368 Jan. 14—Permitting the removal of slow order at C.P.R. crossing west of the station at Dixie, Ontario.

85369 Jan. 14—Permitting the removal of slow order at C.N.R. crossing west of station at Lachine, Quebec.

85370 Jan. 14—Permitting the removal of slow order at C.P.R. crossing of Jane Street, Toronto, Ontario.

85371 Jan. 14—Relieving the C.P.R. from erecting cattle guards on its Coquihalla Subdivision, British Columbia.

85372 Jan. 18—Permitting the removal of slow order at C.N.R. crossing of 53rd Avenue, west of the station at Pointe aux Trembles, Quebec.

85373 Jan. 18—Permitting the removal of slow order at C.P.R. crossing of Heron Road, mileage 1·0 Sussex Street Subdivision, Ottawa, Ontario.

85374 Jan. 18—Restricting the speed of trains at Niagara, St. Catharine & Toronto Railway crossing of Cunningham Street, Toronto, Ontario.

85375 Jan. 18—Permitting the removal of slow order at C.N.R. crossing at Chipman, New Brunswick.

85376 Jan. 19—Permitting the removal of slow order at C.P.R. crossing south of the station at Spencerville, Ontario.

85377 Jan. 19—Extending the time within which the C.N.R. was required by Order No. 84275, to install certain protection at the crossing of their railway and Sophia Street, Prescott, Ontario.

85378 Jan. 19—Authorizing the Municipality of Whitehead, Manitoba, to construct the highway across the C.P.R. in the Village of Alexander, Manitoba.

85379 Jan. 19—Approving operation of C.P.R. trains over private siding serving Light weight Aggregates of Canada Limited in the Municipality of Springbank, Alberta.

85380 Jan. 19—Authorizing the Clearwater Water Users Community, to construct a pipe line across the Trans Mountain Oil Pipe Line Company, Kamloops Division, Yale District, British Columbia.

85381 Jan. 19—Approving proposed location of storage tanks, etc. of Kipling Co-operative Association Limited, near the C.N.R. tracks at Kipling, Saskatchewan.

85382 Jan. 19—Approving proposed location of storage tanks, etc. of Melville Co-operative Association Limited, near the C.N.R. tracks at Melville, Saskatchewan.

85383 Jan. 19—Approving proposed location of storage tank, etc. of Deviney Fuel Company, near the C.P.R. tracks at London. Ontario.

85384 Jan. 19—In the matter of the application of the C.P.R., on behalf of Imperial Oil Limited for approval of facilities for loading crude oil into tank cars from tank trucks at Alida, Saskatchewan.

85385 Jan. 19—Permitting the removal of slow order at C.N.R. crossing east of station at Finchley, Ontario.

85386 Jan. 19—In the matter of the application of The Canadian Freight Association for approval of proposed Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525.

85387 Jan. 19—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

85388 Jan. 19—Authorizing the C.N.R. to abandon a portion of their Algonquin Subdivision, in the Province of Ontario, between Falding, mileage 0·00, and Scotia, mileage 39·95.

85389 Jan. 20—Permitting the removal of slow order at C.P.R. crossing of Cremazie Boulevard, Montreal, Quebec.

85390 Jan. 20—In the matter of approval of plan submitted to the C.N.R. by Whitehall Canadian Oils Limited, showing the location of crude oil loading facilities at Alliance, Alberta.

85391 Jan. 20—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

85392 Jan. 20—Authorizing the Bell Telephone Company of Canada to construct certain lines of telephone along and across certain public highways in the Corporation of the Township of Harwich, County of Kent, Ontario.

85393 Jan. 20—In the matter of the application of the Northern Alberta Railways Company, on behalf of Shell Oil Company for approval of plan showing location of crude oil loading site at Kathleen, Alberta.

85394 Jan. 20—Approving Service Station Contract between the Bell Telephone Company of Canada and the Commisisoners for the Telephone System of the Municipality of the Township of Goderich.

85395 Jan. 20—In the matter of the application of the British Yukon Navigation Company Limited for a licence under section 10 of the Transport Act.

85396 Jan. 20—Permitting the removal of slow order at C.N.R. crossing west of Pottersburg, Ontario.

85397 Jan. 20—Permitting the removal of slow order at C.N.R. crossing east of the station at St. Simon, Quebec.

85398 Jan. 20—Permitting the removal of slow order at C.P.R. crossing west of the station at Deroche, British Columbia.

85399 Jan. 21—Permitting the removal of slow order at crossing of Provincial Highway No. 3, (Talbot Road) and the New York Central Railroad at Maidstone, Ontario.

85400 Jan. 21—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along and across a certain public highway in the County of Kent, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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In the matter of the application of the Elgin Board of Trade for an Order directing the Canadian National Railways to restore the station at Elgin, Ontario, and to terminate the existing station facilities at Forfar, Ontario.

File No. 4205·73

Before:

Mr. HUGH WARDROPE, *Assistant Chief Commissioner.*
Mr. F. M. MACPHERSON, *Commissioner.*
Mr. H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Smiths Falls, Ontario, on December 1, 1954.

Appearances:

Mr. H. A. STEWART, Q.C., for the Elgin Board of Trade.
Mr. D. W. GILMOUR, for the Canadian National Railways.
Mr. JOHN E. HENDERSON and Mr. J. R. MATHESON, for the residents of Forfar, Ontario.

JUDGMENT

CHASE, Commissioner:

History:

Forfar is located in the Township of Bastard and Burgess and the railway station at that point apparently came into existence at the time when what was formerly known as the Brockville and Westport Railway, afterwards designated as the Westport Subdivision of the Canadian National Railways, was opened for traffic in the year 1888, and during the hearing we were told that for many years Forfar was merely a flag station, that is to say, there was no station agent employed at that point. That Subdivision was abandoned in the year 1952 but will be referred to later on in this Judgment.

When what is now known as the Smiths Falls Subdivision of the Canadian National Railways, which extends from Napanee, Ontario to Ottawa, Ontario, was built, it crossed the Westport Subdivision at Forfar, and as far as we can learn, this being a junction point and it being necessary to have an exchange track, an agent was placed at Forfar.

Elgin is in the Township of South Crosby and is approximately two miles by rail from Forfar and about four miles by highway. For many years the Canadian National Railways employed an agent at Elgin but that station was discontinued as an agency station in the year 1921 and, from that time up to the present, patrons of the railways living in or adjacent to Elgin transacted their business with the railways at Forfar.

The Applicants, namely, the Elgin Board of Trade, request an Order directing the Canadian National Railways, hereinafter referred to as the "Railways", to re-open Elgin as an agency station and close the agency at Forfar.

The Applicants are opposed, first, by the patrons of the Railways and the people living in and adjacent to Forfar and, second, by the Railways. The contentions of the various parties might be summarized briefly as follows:

In support of the application it was contended, *inter alia,* that the railway station facilities at Forfar are inadequate, that the highway leading to the station is in bad shape; that it is inconvenient for the merchants and those situate in Elgin to travel to Forfar in order to receive or ship freight, etc., by railway; and that the railway facilities at Elgin are reasonably adequate and can be improved with the expenditure of a small amount of money.

The patrons living at or adjacent to Forfar contend that the population in that area is greater than the population of Elgin and its surrounding territory, that they patronize the railways more extensively and that they should not be put to the inconvenience of travelling the additional distance to Elgin in order to do business with the Railways. In comparing the population, it was stated during the hearing that the population in the vicinity of Forfar is some 3,600 and in the vicinity of Elgin about 900.

With regard to payments to the Railways, one witness who resides at Portland stated in answer to a question by Counsel:

> "Well, Mr. Henderson, I have here that certificate that will verify that coming in we apparently paid the Canadian National Railways at Forfar about the sum of $38,236.75 as incoming freight from December 31st, 1952 to December 31st, 1953." (See page 6225 of the Transcript)

As against that, a witness for the Applicants in answer to a somewhat similar question with respect to the amount paid by shippers at Elgin stated in part:

> "The freight that they paid this year up until today, freight charges, is $15,085.64. That is the amount that they have given me as freight they have paid, freight charges." (See page 6148 of the Transcript)

The Railways, in opposing the application, advised the Board that prior to the application being made they had entered into negotiations with the authorities of the Township of Bastard and Burgess and had in effect completed an understanding whereby they, the Railways, would enlarge and improve the station facilities at Forfar, provided the Township authorities would improve the road leading from the main highway to the station. This understanding was confirmed by the Reeve of the Township, namely, Mr. T. H. Stone. Following the application of the Elgin Board of Trade, neither the Railways nor the Township made any move to implement the understanding, pending the outcome of the hearing with respect to the application.

We turn now to the abandonment of the Westport Subdivision of the Railways.

At page 6209 of the transcript in the present case, the following questions and answers appear, Mr. Stone being cross-examined by Counsel for the Railways, Mr. Gilmour:

"Q. You mentioned that the B. and W. line was abandoned, I think you gave the date of August 1952. I think the exact date actually was August 30, 1952. Do you recall in the summer of 1952 attending a meeting to discuss the question of enlarging the facilities of Forfar station?—A. I attended a meeting, yes.

Q. And at that meeting do you know whether or not a resolution was made?—A. Yes, I remember the resolution.

Q. Do you know what the resolution provided for?—A. That would be a citizens meeting?

Q. Yes.—A. That the station facilities remain at Forfar. That is as near as I can remember it.

Q. And was that information forwarded to the railways to your knowledge?—A. Yes."

A perusal of the transcript of the hearing relating to the abandonment of the Westport Subdivision clearly indicates, I think, that the Railways agreed with the resolution referred to by Mr. Stone.

In that transcript Forfar is mentioned many times. Two statements, I think, are important and I quote from page 3213, during the examination of Mr. Wilson, the Railways' Superintendent:

"Q. Now is Forfar just an ordinary station on the Westport branch or has it any peculiar characteristics?—A. Forfar is also located on the Smiths Falls Subdivision.

Q. And in the event that the line—the Westport Subdivision—is abandoned, will Forfar be eliminated?—A. It will not be affected."

And at page 3269, during the examination of the Railways' witness, Mr. Headley:

"Q. Now Exhibit 28, Mr. Headley, covers changes in mileages and rates on representative movements between Lyn Junction and Westport, as a result of the abandonment—on commodities from various points of origin to Forfar, Ontario?—A. To Forfar.

Q. Which is on the Westport Subdivision and also on the Smiths Falls Subdivision and which, on the evidence as given here today, will be retained on the Smiths Falls division. Why did you pick Forfar?—A. We picked Forfar because that is the station to which most of the traffic will go as a result of this abandonment."

Having regard to the position taken by the Railways at that hearing as shown above, there can be no doubt that the impression was left in the minds of the people living at points adjacent to the former Westport Subdivision that Forfar would remain as an agency station and I would add that, in my opinion, Elgin was not affected or inconvenienced to any reasonable degree by the abandonment and this, I think, is proved by the fact that they did not have a representative to appear during the hearing.

Conclusions:

The Applicants, as far as I can determine, suffer inconvenience only with respect to L.C.L. and express traffic. Carload shipments can be received or shipped direct from Elgin. Telegrams to or from Elgin at the present time would be handled by Forfar. There is no extra charge as both points are on the South Crosby rural telephone exchange.

As above stated, the agency at Elgin was closed in 1921, some thirty-three years ago, and I fail to see how or in what manner they have suffered any additional inconvenience in the last few years.

The business men and others located at or in the vicinity of Westport, Delta, Newboro, Plumhollow, Forfar, Chantry, Harlem, the Municipality of Bastard and Burgess, and the Leeds County Federation of Agriculture have sent in petitions signed by many people asking that the application be denied. Some, however, have stated that they would have no objection to an agent being placed at Elgin but definitely do not want the agency taken out at Forfar.

In evidence it was submitted, as stated herein, that the Railways are prepared to improve the facilities at Forfar and the Township authorities are prepared to improve the highway, and in addition I am of the opinion that the Railways are desirous of complying with the promise they made as referred to above at the time when the application for abandonment of the Westport Subdivision was being heard.

The merchants and residents of the communities listed above suffered a grave inconvenence when the line upon which they are located was abandoned. To approve of the application would merely result in those people suffering a greater inconvenience in order to satisfy a minority.

For the above reasons the application should be dismissed.

My colleague, Mr. Commissioner F. M. MacPherson, is at this moment absent on another assignment. He has, however, authorized me to state that he concurs in the dismissal of the application.

JANUARY 12, 1955.

H. B. CHASE.

I concur:

HUGH WARDROPE.

ORDER No. 85365

In the matter of the application of the Elgin Board of Trade for an Order directing the Canadian National Railways to restore the station at Elgin, Ontario, and to terminate the existng station facilities at Forfar, Ontario.

File No. 4205·73

FRIDAY, the 14th day of January, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held at Smiths Falls, Ontario, on the 1st day of December, 1954, in the presence of Counsel for the Elgin Board of Trade, the Canadian National Railways and the residents of Forfar, Ontario—

It is ordered that the application be, and it is hereby dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85489

In the matter of the application of the Canadian Freight Association under the provisions of Part IV of the Transport Act for approval of an Agreed Charge dated November 24, 1954:

File No. 40994·69

WEDNESDAY, the 2nd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed, notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections having been filed—

It is ordered that the Agreed Charge dated November 24, 1954, between the railways mentioned therein and The Proctor & Gamble Company of Canada Limited on Oil, Edible, Hydrogenated, as specified therein, applicable from Hamilton, Ontario, to New Westminster, B.C., and Vancouver, B.C., be, and it is hereby approved; and the Board hereby fixes the 25th day of November, 1954, as the date from which the said agreed charge shall be deemed to have become operative and to continue in effect subject to Condition 6 thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85490

In the matter of the application of Cow and Gate (Canada) Limited, Brockville, Ontario, and Fisher Bros., Limited, Charlottetown, Prince Edward Island, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 2nd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of their canned goods from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges, be, and they are hereby fixed for Cow & Gate (Canada) Limited and Fisher Bros., Limited the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said companies from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85492

In the matter of the application of the Canadian Freight Association dated December 29, 1954, for approval of Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 45:

File No. 40994·34

THURSDAY, the 3rd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, *C.B.E., Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 45, be, and it is hereby approved; and that the date from which the said Supplement No. 6 shall be deemed to have become operative is hereby fixed as December 30, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85493

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 59:

File No. 40994·48

THURSDAY, the 3rd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, *C.B.E., Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 59 on file with the Board under file No. 40994·48, be, and it is hereby approved; and that the date as from which the said Supplement No. 3 shall be deemed to have become operative is hereby fixed as December 30, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85523

In the matter of the application of Burlington Steel Company Limited of Hamilton, in the Province of Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 63 as approved by the Board:

File No. 40994·50

MONDAY, the 7th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Burlington Steel Company Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its welded steel tubing from Montreal, Que., and Welland, Ontario, to New Westminster, Vancouver and Victoria, B.C., as set out in Agreed Charge C.T.C. (AC) No. 63, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said agreed charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 63 for the transport, by the railway companies parties thereto, of commodities as described in paragraph B of the said agreed charge, shipped by Burlington Steel Company Limited from Montreal, Que., and Welland, Ontario, to New Westminster, Vancouver and Victoria, B.C., subject to and upon the terms and conditions contained in the said agreed charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85527

In the matter of the application of the Canadian Freight Association under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated December 28, 1954:

File No. 40994·71

TUESDAY, the 8th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated December 28, 1954, between the British Columbia Electric Railway Company Limited, Canadian National Railways, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Esquimalt and Nanaimo Railway Company, The Essex Terminal Railway Company, The New York Central Railroad Company (Michigan Central District), Northern Alberta Railways Company, Ontario Northland Railway, Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee), Wabash Railroad Company and Ford Motor Company of Canada Limited on automobiles, freight or passenger, and automobile chassis, applicable between Oakville, Walkerville and Windsor, in the Province of Ontario, and points in the Provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 1st day of January, 1955, and shall continue in effect subject to Condition 6 thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85528

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. No. 73:

File No. 40994·58

TUESDAY, the 8th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 73 on file with the Board under file No. 40994·58, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as January 6, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85529

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 71:

File No. 40994·55

TUESDAY, the 8th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 71 on file with the Board under file No. 40994·55, be, and it is hereby, approved; and that the date as from which the said Supplement No. 5 shall be deemed to have become operative is hereby fixed as January 6, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85565

In the matter of the application of Burlington Steel Company Limited of Hamilton, in the Province of Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 63 as approved by the Board:

And in the matter of Order No. 85523, dated February 7, 1955:

File No. 40994·50

MONDAY, the 14th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that Order No. 85523, dated February 7, 1955, be, and it is hereby amended by striking out the words "Montreal, Que., and Welland, Ontario," in the preamble and in the operative part of the said Order and substituting therefor the words "Hamilton, Ontario".

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85401 Jan. 24—Extending the time within which the C.N.R. is required to install certain protection at the crossing of Vernier Road just east of Coteau Station, Quebec.

85402 Jan. 24—Permitting the removal of slow order at C.P.R. crossing south of station at Resource, Saskatchewan.

85403 Jan. 24—Permitting the removal of slow order at C.N.R. crossing of District Road west of station at Edgerton, Alberta.

85404 Jan. 24—Permitting the removal of slow order at C.P.R. crossing of Highway No. 3 in the Village of Crowsnest, Alberta.

85405 Jan. 24—In the matter of tariffs and supplements to tariffs filed under the Maritime Freight Rates Act and Order of the Board No. 84728, approving tolls published in Tariff C.T.C. No. E.4073 filed by the Dominion Atlantic Railway Company.

85406 Jan. 24—Approving proposed location of storage tanks, etc. of the British American Oil Company Limited near C.P.R. tracks at West Toronto Station, Ontario.

85407 Jan. 24—Authorizing the C.N.R. to use the bridge at Mileage 53·4 Skeena Subdivision, British Columbia.

85408 Jan. 24—Authorizing the C.N.R. to use the bridge at mileage 34·58 Skeena Subdivision, British Columbia.

85409 Jan. 24—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85410 Jan. 24—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Prince Rupert, British Columbia.

85411 Jan. 24—Permitting the removal of slow order at C.N.R. crossing west of station at Carp, Ontario.

85412 Jan. 24—Authorizing the C.N.R. to use the timber bridge at Mileage 106·3, Skeena Subdivision, British Columbia.

85413 Jan. 24—Approving proposed location of storage tanks, etc. of Reliance Petroleum Limited near C.N.R. tracks at Cobourg, Ontario.

85414 Jan. 24—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Big River, Saskatchewan.

85415 Jan. 24—Authorizing the C.P.R. to close the temporary public crossing near Larkin, British Columbia.

85416 Jan. 24—Extending the time within which certain protection is to be installed at C.N.R. crossing of Cote Noire Road, Mileage 69·51 St. Hyacinthe Subdivision, Quebec.

85417 Jan. 24—Authorizing the C.N.R. to alter the fence at Rockfield, Quebec.

85418 Jan. 24—Authorizing the C.N.R. to make signal changes to the block signal system from Mileage 138·62 to Mileage 141·42, Kashabowie Subdivision and from Mileage 0·00 to Mileage 2·09 Fort Frances Subdivision, Ontario.

85419 Jan. 24—Approving Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 46 to become operative on January 28, 1955, (application of Canadian Freight Association).

85420 Jan. 24—Approving Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 48 to become operative on January 28, 1955, (application of Canadian Freight Association).

85421 Jan. 24—In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, the C.N.R. and the C.P.R., on petroleum products from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951.

85422 Jan. 24—In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, the C.N.R. and the C.P.R., on petroleum products as therein specified in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951.

85423 Jan. 24—Approving proposed location of storage tanks, etc. of British Canadian Propane Limited for the handling of liquefied petroleum gas near C.N.R. tracks at Prince George, B.C.

85424 Jan. 24—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to proposed Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525.

85425 Jan. 24—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 40 to Canadian Freight Classification No. 19, Agent R. K. Watson's C.T.C. No. 983.

85426 Jan. 25—Approving the signalling from Mileage 340 to Mileage 357, Province of Newfoundland, on application of the Quebec North Shore and Labrador Railway Company.

85427 Jan. 25—Permitting the removal of slow order at C.N.R. crossing of 118th Avenue, Edmonton, Alberta.

85428 Jan. 25—Permitting the removal of slow order at C.N.R. crossing west of Steady Brook Siding, Newfoundland, Mileage 399·3 Bishop's Falls Subdivision.

85429 Jan. 25—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Corporation of the Township of Maidstone.

85430 Jan. 25—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Elkhorn, Manitoba.

85431 Jan. 25—Authorizing the C.N.R. to operate their trains through the interlocking at the crossing of their railway and the Michigan Central Railway at Clifton Junction, at the west end of Niagara Falls, Ontario.

85432 Jan. 25—Authorizing the Town of Port Colborne, Ontario, to construct a sewer pipe line under the C.N.R. at Elm Street, Port Colborne, Ontario.

85433 Jan. 26—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8.

85434 Jan. 26—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8.

85435 Jan. 26—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.N.R. tracks at Pine River, Manitoba.

85436 Jan. 26—Extending the time within which certain protection is to be installed at the C.N.R. crossing of highway in the Village of Villeneuve, Quebec.

85437 Jan. 26—Approvng proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Hartney, Manitoba.

85438 Jan. 26—Extending the time within which certain protection is to be installed at C.N.R. crossing of Jackson and Hunter Streets and also at Rebecca and Wilson Streets, Hamilton, Ontario.

85439 Jan. 26—Authorizing the City of Winnipeg, Manitoba, to construct Redwood Avenue across the Selkirk Branch, C.P.R., Winnipeg, Manitoba.

85440 Jan. 26—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.P.R. under Section 8.

85441 Jan. 27—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Hoey, Saskatchewan.

85442 Jan. 27—Permitting the removal of slow order at C.N.R. crossing of St. Octave Street west of station at Victoriaville, Quebec.

85443 Jan. 27—Approving operation of the C.P.R. trains over the private siding serving the Moose Jaw Co-Operative Association Limited, Moose Jaw, Saskatchewan.

85444 Jan. 27—Authorizing the C.N.R. to construct a tunnel under the C.N.R. and under the siding serving the Canada Paper Company at Windsor Mills, Quebec.

85445 Jan. 27—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the Northern Alberta Railways Company tracks at Hythe, Alberta.

85446 Jan. 27—Permitting the removal of slow order at C.N.R. crossing north of station at Coniston, Ontario.

85447 Jan. 27—Approving amendments to the Connecting Agreement between the British Columbia Telephone Company and the Pacific Telephone and Telegraph Company.

85448 Jan. 27—Permitting the removal of slow order at C.N.R. crossing west of station at Lyster, Quebec.

85449 Jan. 28—Approving operation of the London and Port Stanley Railway trains over private siding serving the McColl-Frontenac Oil Company Limited and Imperialle Fuels Limited, Port Stanley, Ontario.

85450 Jan. 28—Permitting the removal of slow order at C.N.R. crossing east of station at Lintlaw, Saskatchewan.

85451 Jan. 28—Rescinding Order No. 68986, dated May 20, 1947, in the matter of protection at the crossing of Belleville Road and the C.N.R. in Lot 18, Concession 2, Township of Richmond, Ontario.

85452 Jan. 28—In the matter of Order No. 84113, dated July 12, 1954, which approved By-law No. 88-53 prohibiting the sounding of any engine whistle in respect of any highway crossing within the limits of the City of St. Thomas, Ontario.

85453 Jan. 28—Authorizing the Quebec Central Railway Company to use the culvert at Mileage 8·4, Chaudiere Subdivision, Quebec.

85454 Jan. 31—Approving under the Maritime Freight Rates Act tolls published in Supplements to tariff filed by the Dominion Atlantic Railway Company under Section 8.

85455 Jan. 31—Permitting the removal of slow order at Montreal and Southern Counties Railway crossing of Montee St. Hubert, first crossing west of station at Croydon, P.Q.

85456 Jan. 31—Authorizing the C.N.R. to reconstruct the bridge over Smith Creek, at mileage 15·2 Maynooth Subdivision, Ontario.

85457 Jan. 31—Approving less than standard clearance on private siding (C.P.R.) serving the Tweed Steel Works Limited, at Tweed, Ontario.

85458 Jan. 31—Approving plan showing diversion of the C.P.R. at mileage 77·6 Laggan Subdivision, near Anthracite, Alberta.

85459 Jan. 31—Authorizing the C.N.R. to reconstruct the bridge over Cold Creek, Ontario, at mileage 7·5 Maynooth Subdivision.

85460 Jan. 31—Authorizing the C.N.R. to use the bridge over the Airport road, at mileage 4·2 Kitimat Branch, B.C.

85461 Jan. 31—Authorizing the Village Municipality of Plum Coulee, Manitoba, to construct North Railway Street across the C.P.R. wye track in the Village of Plum Coulee, Manitoba.

85462 Jan. 31—Authorizing the C.N.R. to use the bridge over the Skeena River, mileage 0·2 Terrace-Kitimat Branch, B.C.

85463 Jan. 31—Authorizing the C.P.R. to construct a siding to serve Canadian Industries (1954) Limited, across lanes in the City of Regina, Saskatchewan.

85464 Jan. 31—Approving proposed location of storage tanks, etc. of Shell Oil Company of Canada Limited near the tracks of The London and Port Stanley Railway at London, Ontario.

85465 Jan. 31—Permitting the removal of slow order at C.N.R. crossing south of station at Morris, Manitoba.

85466 Jan. 31—Permitting the removal of slow order at C.N.R. crossing west of station at Parker, N.B.

85467 Jan. 31—Approving under the Maritime Freight Rates Act tolls published in certain supplements to tariff filed by the C.N.R. under sections 3 and 8.

85468 Jan. 31—Permitting the removal of slow order at C.N.R. crossing of Wolfe Street, Liverpool, N.S.

85469 Jan. 31—Permitting the removal of slow order at C.P.R. crossing of Monroe Street, Renfrew, Ontario.

85470 Jan. 31—Authorizing the C.N.R. to make signal changes to the interlocking at the movable Bridge No. 20 over the Welland Ship Canal at Port Colborne, Ontario.

85471 Feb. 1—Approving supplement and revised appendix to Traffic Agreement between The Bell Telephone Company of Canada and The Oxford Telephone Company Limited.

85472 Feb. 1—Authorizing the C.N.R. to use the overhead timber trestle, at mileage 2·0 Kitimat Branch, B.C.

85473 Feb. 1—Authorizing the C.N.R. to operate the bridge over Lakelse River, B.C., mileage 11·6 Kitimat Branch, B.C.

85474 Feb. 1—Authorizing the C.N.R. to use the bridge over Coldwater Creek, at mileage 12·5 Kitimat Branch, B.C.

85475 Feb. 1—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Thessalon.

85476 Feb. 1—Permitting the removal of slow order at C.N.R. crossing of St. Zephirin Street, La Tuque, P.Q.

85477 Feb. 1—Permitting the removal of slow order at C.N.R. crossing north of station at Monkland, in the City of Montreal, P.Q.

85478 Feb. 1—Approving less than standard clearance at certain loading points on C.N.R. siding serving National Slag Limited, at Hamilton, Ontario.

85479 Feb. 1—Approving less than standard clearances at certain loading points on siding serving National Slag Limited, at Hamilton, Ontario. (Revised plan).

85480 Feb. 1—Permitting the removal of slow order at C.P.R. crossing of Mabee Side Road, near Eden, Ontario.

85481 Feb. 1—Authorizing the C.N.R. to use the bridge across the Grand River, near Caledonia, Ontario.

85482 Feb. 1—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Kelsey, Alberta.

85483 Feb. 1—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Jarrow, Alberta.

85484 Feb. 1—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Blackfoot, Alberta.

85485 Feb. 1—Approving operation of C.P.R. trains over private siding serving The International Nickel Company of Canada, Limited, in the Township of Denison, Ontario.

85486 Feb. 1—Permitting the removal of slow order at C.N.R. crossing at Castlefield Avenue, Toronto, Ontario.

85487 Feb. 2—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

85488 Feb. 2—Authorizing the C.N.R. to construct the Candiac ballast pit spur across certain highways in the Province of Saskatchewan.

85489 Feb. 2—In the matter of the application of the Canadian Freight Association under the provisions of the Transport Act for approval of an Agreed Charge dated November 24, 1954, on Edible Oil.

85490 Feb. 2—In the matter of application of Cow & Gate (Canada) Limited, Brockville, Ontario and Fisher Brothers, Limited, Charlottetown, Prince Edward Island, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62 as approved by the Board, (Canned goods).

85491 Feb. 3—Amending Order No. 84235 dated July 28, 1954, in the matter of protection at C.N.R. crossing of Hardy Road, west of Brantford, Ontario.

85492 Feb. 3—In the matter of application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 45.

85493 Feb. 3—In the matter of application of the Caandian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 59.

85494 Feb. 3—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.P.R. tracks at Veteran, Alberta.

85495 Feb. 3—Approving Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Harvey.

85496 Feb. 4—In the matter of application of the C.P.R. for approval of plan and book of reference showing revised location from mileage 27·0 to mileage 40·04, and profile showing revised line from mileage 30·9 to mileage 40·04 of the C.P.R. Manitouwadge Lake Branch Line, Ontario.

85497 Feb. 4—In the matter of consideration of protection at the crossing of Provincial Highway No. 41 by the C.N.R., being the first crossing west of the station at Napanee, Ontario.

85498 Feb. 4—Approving proposed location of storage tanks, etc. of Shell Oil Company of Canada Limited, near C.N.R. tracks at North Bay, Ontario.

85499 Feb. 4—Permitting the removal of slow order at C.P.R. crossing of John Street, Weston, Ontario.

85500 Feb. 4—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near C.P.R. tracks at Foam Lake, Saskatchewan.

85501 Feb. 4—Approving proposed location of storage tanks, etc. of Brydges Coal Company, near C.N.R. tracks at Guelph, Ontario.

85502 Feb. 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Bruno, Saskatchewan.

85503 Feb. 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Picture Butte, Alberta.

85504 Feb. 4—Authorizing the C.N.R. to reconstruct the bridge over Consecon Lake, Ontario, at mileage 19·64 Picton Subdivision.

85505 Feb. 4—Extending the time within which protection is to be installed by the C.P.R. at the crossing of the Trans-Canada Highway at mileage 6·0 Langdon Subdivision, Alberta.

85506 Feb. 4—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

85507 Feb. 4—Authorizing less than standard clearance at The London and Port Stanley Railway siding serving the Richards-Wilcox Canadian Company, Limited, at London, Ontario.

85508 Feb. 4—Permitting the removal of slow order at C.N.R. crossing of Peppitt Street, North Sydney, N.S.

85509 Feb. 4—Permitting the removal of slow order at C.P.R. crossing of Dundas Street, Islington, Ontario.

85510 Feb. 4—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Centre Road Telephone Company Limited.

85511 Feb. 4—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Balaclava Telephone Company Limited.

85512 Feb. 4—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Silcote Telephone Company Limited.

85513 Feb. 4—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

85514 Feb. 4—Permitting the removal of slow order at C.N.R. crossing of Islington Avenue, west of the Town of Weston, Ontario.

85515 Feb. 4—Permitting the removal of slow order at C.N.R. crossing west of Munson Junction, Alberta.

85516 Feb. 4—Permitting the removal of slow order at C.N.R. crossing of Ridout Street, London, Ontario.

85517 Feb. 4—Permitting the removal of slow order at C.P.R. crossing of Osler Avenue, Toronto, Ontario.

85518 Feb. 4—Permitting the removal of slow order at C.N.R. crossing west of Pottersburg, Ontario.

85519 Feb. 4—Amending Order No. 53736 dated November 20, 1936, in the matter of allocation of cost of maintenance of C.P.R. crossing, at mileage 38·01 Cartier Subdivision.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV MARCH 15, 1955 No. 24

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In the matter of the application of the Canadian National Railways under Section 168 of the Railway Act and subsection 3, Section 2 of the Canadian National-Canadian Pacific Act, for an Order approving the abandonment of a portion of their Algonquin Subdivision, Province of Ontario, between Falding, mileage 0·00, and Scotia, mileage 39·95, a total distance of 39·95 miles.

File 39310·17

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

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Heard at:

Huntsville, Ontario, on December 6, 1954.

Appearances:

J. W. G. MACDOUGALL and D. W. GILMOUR, for the Canadian National Railways.

J. HANNON, Reeve, Township of Perry.

HUGH FORBES and E. H. ELLIOTT, for Committee opposed to Application.

JUDGMENT

WARDROPE, Assistant Chief Commissioner:

This is an application by the Canadian National Railways under Section 168 of the Railway Act and subsection 3, Section 2 of the Canadian National-Canadian Pacific Act and all other relevant Statutory provisions for an Order granting it leave to abandon a portion of the Algonquin Subdivision in the Province of Ontario between Falding, a point on the Bala Subdivision some nine miles southeast of Parry Sound, and Scotia, a point on the Huntsville Subdivision, a total distance of 39·95 miles.

99430—1

The application was heard at Huntsville, Ontario, on December 6, 1954.

Mr. Macdougall, Counsel for the Applicant, in opening his case gave to the Board the following historical summary of the line of railway of which the portion sought to be abandoned forms a part. Although not entirely essential to reaching a decision on the facts, I insert it here rather as illustrative of how changing conditions and circumstances in the course of time can cause the decline and fall of a branch of a Railway System.

"This portion of the Algonquin Subdivision which we are considering today between Falding and Scotia was a part of the old line between Ottawa and Depot Harbour which was constructed shortly before the turn of the century by the Ottawa, Arnprior and Renfrew Railway Company and the Ottawa and Parry Sound Railway Company, to enable them to tap the virgin timber resources lying between the upper reaches of the Ottawa River and Georgian Bay. These companies amalgamated under the name of the Ottawa, Arnprior and Parry Sound Railway Company which was acquired and became merged with the Canada Atlantic Railway Company in 1899. The Canada Atlantic acquired the line for the purpose of establishing a rail-lake-and-rail route for non-perishable package freight moving from the American East Coast to the Mid-western States, and as a route for grain and other traffic moving from Chicago, Milwaukee and Duluth through Canada to the New England and other Atlantic Coast states. The Canada Atlantic erected grain elevators and large storage sheds at Depot Harbour, and through its American Subsidiary, the Canada Atlantic Transit Company, operated three first class ships between the aforementioned ports on the Great Lakes.

"In 1904 the Grand Trunk Railway Company of Canada acquired control of the Canada Atlantic and its subsidiaries by virtue of an agreement with J. R. Booth, and in 1914 the Canada Atlantic was formally amalgamated with the Grand Trunk under the name of the latter company.

"When the Canadian National Railway Company absorbed the Grand Trunk in 1923 it found itself with many functionally duplicate and intercompetitive railway lines, continued operation of which could not be justified either on the grounds of public necessity or sound business economics. Studies were accordingly undertaken to determine the possibility of concentrating traffic on the lowest cost lines. One of the studies in question related to the cost of handling export grain over the former Canada Atlantic route via Depot Harbour and Ottawa compared to the expense involved in moving the traffic via the Grand Trunk line from Midland.

"This study indicated that even before the Canada Atlantic overhead route was established, several competing rail-lake-and-rail routes had come into existence and that in later years more followed. Overhead traffic moved via Midland, Collingwood, Meaford, Owen Sound, Goderich and Sarnia, to name but the major gateways. The result was that the share of the traffic accruing to the Canada Atlantic on its Depot Harbour route was less than had originally been anticipated. In addition, greater traffic density on the more southerly routes which were located in highly industrialized territory enabled competing lines to carry their share of overhead traffic at a lower out-of-pocket cost, and hence placed the Canada Atlantic in an unfavourable competitive position.

"It was obvious to the Canadian National Management that retention of the overhead route via Depot Harbour could not be justified from an economic point of view, and therefore in 1924 its use was discontinued and the grain elevator at Depot Harbour was leased to private interests. Grain traffic which continued to move by lake into Depot Harbour was

thereafter routed via Falding, Atherly, Belleville and Coteau to the International boundary as this route assured a much lower ton mile cost due to the stronger roadbed and the ability to use heavier power and achieve heavier train loading. The Falding-Atherly-Belleville-Coteau route continued to be used until 1946 when the Canada Atlantic Transit Company ceased operations.

"With the very substantial falling off of overhead traffic and the diversion of what remained to the Falding-Atherly-Belleville-Coteau route, the line between Depot Harbour and Ottawa became entirely dependent upon local traffic tributary to the line. To a large degree the lumber and forest products, for which the line had originally been constructed, had been removed and reforestation offered little prospect of potential traffic volume for the immediate future. The railway accordingly became a very thin traffic line. In the meantime the original bridge and track structures would not permit of the use of heavier and more modern type of motive power, and enormous capital expenditures would have been necessary to rehabilitate the track structure and bridges to acceptable standards." (Pages 6243-6245 of the Transcript).

Incidentally, this is the second application for leave to abandon a portion of this same line of railway between Depot Harbour and Ottawa. The first was made in 1951 to abandon 20·87 miles between Whitney and Cache Lake (Algonquin Subdivision) and was granted by the Board's Order No. 78548 of the 22nd of March, 1952. (File 39310·60).

Starting at Falding, the 39·95 miles in question runs approximately in an easterly direction through the Townships of Foley, Christie, Monteith, McMurrich and Perry in which are the following centres, west to east, with stations. The numbers after the names represent populations in 1951 census. Swords (100); Edgington (188); Seguin Falls (100); Bear Lake (35); Whitehall (45); Sprucedale (266); Walls (50). The immediate area served by the line between Falding and Scotia is a sparsely settled but well wooded area, although not of primary growth. While a certain amount of mixed farming is carried on, forest products are the predominant commodities produced.

The line is roughly paralleled by a secondary provincial road with gravel surface. It joins Highway No. 69 between Parry Sound and Falding on the west and Highway No. 11 at Emsdale just north of Scotia to the east.

Train service at present consists of Mixed Trains Nos. 263 and 264 which run eastward from Falding through Scotia to Algonquin Park on Mondays and Fridays, returning Tuesdays and Saturdays. During July and August this service is increased eastward to Mondays, Wednesdays and Fridays, and westward Tuesdays, Thursdays and Saturdays.

This line is a Class E line, which is the lowest category consistent with safety of operation of five classes of line. Its maintenance is geared to the traffic offered and the light equipment necessary to haul it. Two bridges built in 1901 will shortly require extensive expenditures to maintain safety of operation over them. In addition, there will be further substantial expenditures required if the line continues to operate even under present traffic volume and conditions. There is a speed restriction of twenty-five miles per hour for all traffic.

Evidence was given and exhibits filed to show in detail traffic (passenger, freight, express and miscellaneous) on the line and by stations for the years 1949-1953 inclusive. Generally speaking, it is very thin with a pronounced falling off of carload traffic in 1953, being only some 53 per cent of that in 1949. Further evidence presented for the first nine months of 1954 shows a continued decline in overall revenues, exclusive of mail, of some 20 per cent over the

same period in 1953. While revenues continued in this unsatisfactory state, expenses increased considerably. However, in the revenue picture will be reflected the several recent increases in freight rates authorized by the Board. On the other hand, those in opposition to the application were of the opinion that the increases in rates had driven some of the traffic to the trucks, which had the effect of reducing the volume of freight traffic which would otherwise have been retained by the Railway.

The following (Exhibit No. 9) is a condensed statement of revenues and expenses reflecting system losses incurred in connection with the operation of this line:

CANADIAN NATIONAL RAILWAYS

Loss incurred on Algonquin Subdivision, Scotia to Falding, Ont.
1949-1953, both inclusive.

System Revenues	1949	1950	1951	1952	1953
Passenger	$ 1,841	$ 1,010	$ 1,263	$ 1,028	$ 1,135
Freight	29,147	38,401	36,100	51,423	30,379
Express	4,106	3,456	3,952	3,751	4,015
Miscellaneous	831	848	1,079	1,028	1,107
	$35,925	$43,715	$42,394	$57,230	$36,636
Expenses (out-of-pocket)					
Branch Line					
Mtce. of Way and Structures	$46,582	$47,105	$45,242	$ 65,373	$ 74,993
Train Service	19,008	15,929	20,758	22,351	26,380
Mtce. of Equipment	2,995	3,119	4,079	6,349	7,125
Station Services	6,636	6,735	7,424	9,222	10,359
Taxes	228	210	228	250	250
Off-Line Expenses					
50% Op. Ratio on Freight and Express	14,153	17,807	17,042	23,468	14,638
Total	$89,602	$90,905	$94,773	$127,013	$133,745
SYSTEM LOSS	$53,677	$47,190	$52,379	$ 69,783	$ 97,109

A representative committee appointed to represent the residents of the Townships of Perry, McMurrich, Monteith, Spence, Christie and Foley appeared in opposition to the application. Their Brief was read into the record. It placed strong emphasis on the fact that the area served by this portion of line was dependent to a large degree upon the sale of forest products. It was strongly urged upon the Board that if the line were abandoned it would not only create a great hardship but that those who depend on this industry would be deprived of their principal means of livelihood. It was pointed out that the road paralleling the railway, particularly in the present condition, was inadequate to serve the area if the line were taken up. It was also felt that if the railway would provide better service its revenue position would be greatly improved. There did seem, however, to be an underlying opinion that even should the railway go, what was required more than anything else was to have the road improved. There is no doubt, due to whatever causes they may be, that a considerable amount of traffic in this area is being or can be trucked, notwithstanding the indifference of and the difficulties on the road.

But there was also no doubt left in the Board's mind that improvements to the road were strongly desired by those opposing the application. But this is a matter beyond the jurisdiction of this Board to deal with.

In conclusion, bearing in mind all that was stated in opposition and also the inconvenience and loss the abandonment will entail, I think the application must be considered favourably.

The Board is guided in these matters by a principle that has often been stated before, i.e.,

> "The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involved would impose upon the railway company".

That there will be inconvenience and some loss to those affected is regrettably inevitable. But in this case, in my opinion, the burden of continued operation which would be placed upon the railway outweighs the detrimental results to the public. Exhibit No. 9, *supra*, shows the substantial losses to the railway: The traffic thereon is diminishing; there is no evidence that any particular expansion, industrially or otherwise, is anticipated in this area; nor is there any evidence of increased rail traffic in prospect.

I would therefore grant the application. An Order to go accordingly.

January 17, 1955.

HUGH WARDROPE.

I concur:

F. M. MacPherson.

I concur:

H. B. Chase.

ORDER No. 85388

In the matter of the application of the Canadian National Railways under section 168 of the Railway Act and subsection 3, section 2 of the Canadian National-Canadian Pacific Act, for an Order approving the abandonment of a portion of their Algonquin Subdivision, Province of Ontario, between Falding, mileage 0·00, and Scotia, mileage 39·95, a total distance of 39·95 miles:

File No. 39310·17

Wednesday, the 19th day of January, A.D. 1955.

Hugh Wardrope, *Asst. Chief Commissioner.*
F. M. MacPherson, *Commissioner.*
H. B. Chase, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held at Huntsville, Ontario, on December 6, 1954, in the presence of Counsel for the Canadian National Railways and representatives of the Township of Christie, the Township of McMurrich, the Township of Foley and the Village of Orville—

It is ordered that the Canadian National Railways be, and they are hereby authorized to abandon a portion of their Algonquin Subdivision, in the Province of Ontario, between Falding, mileage 0·00, and Scotia, mileage 39·95, a total distance of 39·95 miles.

HUGH WARDROPE,
Assistant Chief Commissioner.

Application of Industrial Traffic Bureau, Calgary, Alta., re rating on self-propelled snow plows.

File 47608

RULING

By the Board:

The applicant, Industrial Traffic Bureau Limited, Calgary, Alta., on behalf of W. F. Fuller Machinery Company, Regina, Sask., and Costello Equipment Company, Limited, Calgary, Alta., seeks a ruling in respect of claims made against the Canadian Pacific Railway Company for alleged overcharges in rates on six carloads of so-called "self-propelled snow plows" from Wausau, Wisconsin to Calgary and Edmonton, Alta., and from Brooklyn, N.Y. to Regina, Sask. Both the applicant and the railway request that the Board decide the matter at issue upon the written submissions and have agreed to be bound thereby.

The shipments involved were forwarded via various routes during the period between February 8, 1952, and March 24, 1953. Only the rate from the international boundary to the destinations is at issue.

Attached to the applicant's submission is a brochure depicting four types of vehicles described as Walter Snow Fighters. Pictorially, these vehicles are shown to comprise a conventional type of motor truck chassis and body, and the brochure gives the following descriptive data respecting each of the four types:

> "250 HP. Walter Snow Fighter. Largest, most powerful and effective snow removal unit made. 42,000 G.V.W., with Vee Plow and Right and Left 14-foot Speed Wings. Total clearing width 28 feet, widening width 14 feet. Clears great depths and widths of snow at high speeds. Ideal for super highways and airports. Equipped with dump body."
>
> "240 HP. Walter Snow Fighter. Does four jobs—plows at high speed, levels snow banks, scrapes packed snow, spreads sand and chemicals. Has one way front plow, 16 foot right speed wing, 12 foot center scraper blade, 10 ton capacity automatic sand and chemical spreader. Truly a single unit 'snow fleet'."
>
> "185 HP. Walter Snow Fighter. The standard unit for high speed highway clearance and widening, equipped with offset Vee Plow, right speed wing and dump or other type bodies for general hauling. Also available with Vee Plow and right speed wing for narrow roads—or with right and left speed wings for effective widening."
>
> "125 HP. Walter Snow Fighter. Widely used for moderate snow conditions where a smaller, but fast, handy and powerful unit is required. Usually equipped with one way plow and right wing for widening. Also may be equipped with center scraper blade, offset V or V front plow. Has dump body for general hauling."

Reference is made in the applicant's submissions to other types manufactured by the Four-Wheel-Drive Auto Company but no descriptive data was furnished regarding the latter. It is, therefore, assumed that the articles of both producers are substantially the same.

The applicant asserts that the vehicles consist of a single unit self-propelled snow plow; that they are solely for that purpose; and that the propelling unit is used for the same purpose as a tractor, similar to tractor used for hauling motor trailers. In so far as the body of the vehicle is concerned it appears to be contended that it is used for ballast purposes to provide necessary traction to the vehicle when snow plow wings are attached.

The applicant also contends that the issue to be decided is simply the purpose to which this equipment is put and that "a self-propelled freight vehicle must actually be used for carrying freight and intended for that purpose to be classified as such".

The railway contends that the shipments consist of a combination article, namely a freight automobile and snow plow attachments.

The applicant urges that the provisions of Item No. 160 of Agent J. F. Flynn's Tariff 134-B, C.T.C. 486 apply, which reads:

"Snow Plows and Tractors, separate or combined
In straight or mixed carloads.....5th Class".

whereas the railway's contention is that 2nd Class rating applies under the provisions of Rule 19 of Canadian Freight Classification 19, C.T.C. 983, reading:

"Combination Articles

When not specifically classified, combination articles, such as a combination chair and step ladder, or an article used both as sweeping compound and furniture polish, will be charged at the rating for the highest classed article of the combination."

The rating thus obtained is derived from the higher of the two following provisions of the Classification:

Items 38, 39, 40, page 231

Vehicles, Self-Propelling:

Automobiles

Freight, including Tractors (Driving Trucks for Freight Vehicles or Fire Apparatus) 2nd Class

Item 41, page 120

Snow Plow Attachments for Automobiles or Tractors.....5th Class

We have carefully studied the submissions made and no extended summary of them is necessary. The main point involved is whether the type of vehicle concerned is capable of being considered a Tractor. The applicant's whole case rests upon this point in its endeavours to establish a right to the rating set out in Item 160 of Agent Flynn's Tariff 134-B.

The snow plow blade and wings are demountable and therefore do not constitute a permanent part of the vehicle. It has been stated that the harness to which the plow or wing is attached is permanently fixed to the vehicle.

Under Items 15 and 16, page 170 of the Classification, Tractors "not including tractors with vehicle beds, vehicle bed frames" are rated 6th class in carloads, but such item is qualified by Note 14 thereof, reading: "Tractors with vehicle beds, vehicle bed frames, ... will be rated as Freight Vehicles, self-propelling".

The rating for self-propelled freight vehicles is that set out in Items 38 to 40, page 231, as previously extracted herein. The said items also provide that tractors consisting of driving trucks for freight vehicles are rated the same as self-propelled freight vehicles.

With due consideration to the distinction thus drawn as to types of tractors and to the descriptive data obtained from the manufacturer's brochure, we are of the opinion that Item 160 of Agent Flynn's Tariff 134-B cannot be held to be applicable to the articles involved.

With respect to the applicant's assertion that the use to which an article is put should determine its classification, we must comment that to adopt such a suggestion in the instant case would create a serious anomaly. The descriptive data for the articles involved includes such expressions as "Equipped with dump body"; "10 ton capacity automatic sand and chemical spreader"; "dump or other type bodies for general hauling"; and "Has dump body for general hauling".

It is immaterial whether the applicant uses the vehicle and its snow plow attachments solely for the purpose of clearing snow, or whether it has other uses as seem to be indicated by the manufacturer. To adopt the factor of use as determinative of the proper classification would entail one rating for one purpose and another for other purposes, although both are the same article.

Upon full consideration we are compelled to find that the proper rating to apply on the article involved is 2nd Class as a freight automobile, self-propelled, and by virtue of the provisions of Rule 19 of the Classification, the snow plow attachments thereof constitute the shipment as a combination article at the 2nd Class rating.

OTTAWA, January 17, 1955.

HUGH WARDROPE.

I concur:

H. B. CHASE.

I concur:

A. SYLVESTRE.

ORDER No. 85595

In the matter of the application of Canada Steamship Lines Limited and The Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division"), hereinafter called the "Applicant" for a licence under section 10 of the Transport Act:

File No. 42076·4·2

THURSDAY, the 17th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of section 12 of the Transport Act Licence No. C.T.C. (W.T.) 297 be issued to the Applicant licensing, for the period of one year commencing January 15, 1955, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Acadian	133533	1686
Barrie	151045	1824
Battleford	148134	2357
Beaverton	125440	2012
Calgarian	112205	2272
Canadian	125427	2214
City of Hamilton	153423	1665
City of Kingston	152837	1690
City of Montreal	153422	1665
City of Toronto	152838	1688
City of Windsor	154463	1905
Edmonton	122856	1983
Elgin	145518	1906
Fairmount	68808	1851
Fernie	154461	2419
Grainmotor	154473	1829
Hastings	145533	1906
Kenora	124235	1979
Kinmount	138187	1711
Lethbridge	147702	2407
Mapleheath	129767	1692
Meaford	151043	1824
Penetang	151046	1824
Saskatoon	153436	2412
Selkirk	152859	2384
Simcoe	145511	1783
Starmount	145609	1859
Teakbay	154462	1895
Weyburn	153437	2408
Winnipeg	152854	2383

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Collingwood	117089	4529
Renvoyle	148133	3571
Westmount	138232	7392

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85596

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 83:

File No. 40994·71

THURSDAY, the 17th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 83 on file with the Board under file No. 40994·71, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as January 5, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85598

In the matter of the application of Canada Steamship Lines Limited and The Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division"), hereinafter called the "Applicant" for a licence under section 10 of the Transport Act:

File No. 42076·4·1

THURSDAY, the 17th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of section 12 of the Transport Act, Licence Number C.T.C. (W.T.) 296 be issued to the Applicant licensing, for the period of one year commencing January 15, 1955, the following ships to transport passengers between all ports and places in Canada on the St. Lawrence River between Montreal and the West end of the Island of Orleans:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Richelieu	150828	5528
St. Lawrence	153438	6328
Tadoussac	153447	7013

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85604

In the matter of the application of Charles Sanders, hereinafter called the "Applicant" for a licence under section 10 of the Transport Act:

File No. 42076·45

THURSDAY, the 17th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 298 be issued to the Applicant licensing for the period of one year commencing February 9, 1955, the following ships to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and North thereof:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
S.T. Barge 102	171,641	141
S.T. Barge 103	173,702	141
S.T. Barge 150	157,161	160

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85612

In the matter of the application of Northwest Steamships Limited for a licence under section 10 of the Transport Act:

File No. 42076·2

FRIDAY, the 18th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence Number C.T.C. (W.T.) 299 be issued to Northwest Steamships Limited for the period of one year commencing on the 15th day of January, 1955, licensing the following ships:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
A. A. Hudson	148089	2,222
Superior	154471	1,774

to transport goods by water between all ports or places in Canada, on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85628

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 76:

File No. 40994·60

WEDNESDAY, the 23rd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 76 on file with the Board under file No. 40994·60, be, and it is hereby, approved; and that the date as from which the said Supplement No. 6 shall be deemed to have become operative is hereby fixed as January 20, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85635

In the matter of the application of The Canadian Freight Association for approval of Supplement No. 2 to Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525:

File No. 33365·168

WEDNESDAY, the 23rd day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Order of the Board No. 83242, dated March 1, 1954, prescribed a uniform scale of mileage class rates for application not later than March 1, 1955, and a contemporaneous revision of the Canadian Freight Classification was thereby required;

And whereas proof copies of the proposed Supplement No. 2 to proposed Canadian Freight Classification No. 20 and copies of the notice of the submissions thereof have been filed with the Board and delivered in accordance with the Board's General Order No. 695 and the said notice has been forwarded to the Queen's Printer for publication in the next two issues of the *Canada Gazette*—

It is ordered

1. That, pursuant to section 325 of the Railway Act, Supplement No. 2 to Canadian Freight Classification No. 20, Agent R. K. Watson's, C.T.C. No. 1525, to govern tariffs of tolls for freight traffic is hereby approved.

2. That the publication and filing of the said Supplement No. 2 on not less than one day's notice effective March 1, 1955, is hereby authorized.

3. That the publication of the said Supplement No. 2 to the said Classification without observing the provisions of paragraph 3 of General Order No. 695 is hereby authorized.

4. That in all respects the said Supplement No. 2 to the said Classification shall be subject to complaint and investigation in accordance with the provisions of the Railway Act and the Board's Rules of Practice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85636

In the matter of the application of the Canadian National Railway Company for an Order authorizing the discontinuance of its railway passenger service between Campbellton and Dalhousie, New Brunswick:

File No. 27563·266

WEDNESDAY, the 23rd day of February, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

This application having been heard at Dalhousie, N.B., on February 17, 1955, by the Deputy Chief Commissioner and Commissioner H. B. Chase, C.B.E., and oral judgment having been given granting the application—

It is ordered that Canadian National Railway Company be, and it is hereby authorized to discontinue its mixed trains 221, 222, 223, 224, 225, 226, 227 and 228 between Campbellton and Dalhousie, New Brunswick.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85643

In the matter of the application of Canadian National Railways for an Order authorizing the discontinuance of certain passenger services in Pictou County, Nova Scotia:

File No. 27563·458

THURSDAY, the 24th day of February, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

This application having been heard at Stellarton, N.S., on February 8 and 9, 1955, by the Deputy Chief Commissioner and Commissioner H. B. Chase, C.B.E., and oral judgment having been given granting the application—

It is ordered that Canadian National Railways be, and they are hereby authorized to discontinue the following passenger and mixed train services:

(*a*) Passenger trains 360 and 367, daily, except Sunday, between New Glasgow and Pictou;

(*b*) Mixed trains 262, 263, 264 and 265, daily except Sunday, between New Glasgow and Pictou;

(*c*) Passenger trains 335, 336, 337 and 338, daily except Sunday, and 339 and 340, Tuesday and Saturday, between New Glasgow and Sunny Brae;

(*d*) Passenger trains 123, 128, 129, 341 and 342, daily except Sunday, and 130 and 131, Saturday only, between New Glasgow and Hopewell;

(*e*) Passenger trains 120 and 125, daily except Sunday, between Stellarton and Hopewell;

(*f*) Passenger trains 119 and 126, daily except Sunday, between Hopewell and Pictou Landing;

(*g*) Passenger train 122, daily except Sunday, between New Glasgow and Pictou Landing;

(*h*) Passenger train 121, daily except Sunday, between Stellarton and Pictou Landing;

(*i*) Passenger trains 336 and 337, daily except Sunday, between Hopewell and Sunny Brae;

(*j*) Passenger train 124, daily except Sunday, between New Glasgow and Stellarton.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85520 Feb. 7—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Woodford Telephone Company Limited.

85521 Feb. 7—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and The Leith and Annan Telephone Company Limited.

85522 Feb. 7—Authorizing the Village of Point Edward, Ontario, to construct Lite Street across the C.N.R.

85523 Feb. 7—In the matter of the application of Burlington Steel Company Limited of Hamilton, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 63.

85524 Feb. 8—Authorizing the Alberta Department of Highways to construct for a temporary period of six months the highway across the C.P.R. at mileage 84·9 and mileage 86·3 Crowsnest Subdivision, Alberta.

85525 Feb. 8—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Wellwood, Manitoba.

85526 Feb. 8—Permitting the removal of slow order at C.N.R. crossing of Lancaster Street, Kitchener, Ontario, and requiring a watchman to protect the crossing at certain periods of the day.

85527 Feb. 8—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated December 28, 1954, on automobiles and automobile chassis.

85528 Feb. 8—Approving Supplement to Agreed Charge Tariff C.T.C. (AC) No. 73.

85529 Feb. 8—Approving Supplement No. 5 to Agreed Charge Tariff C.T.C. (AC) No. 71.

85530 Feb. 8—Authorizing the Municipality of Escuminac, Quebec, to construct the highway across the C.N.R. at mileage 27·12 Cascapedia Subdivision, Quebec.

85531 Feb. 8—Permitting the removal of slow order at C.N.R. crossing north of the station at Rathburn, Ontario.

85532 Feb. 8—Permitting the removal of slow order at C.N.R. crossing in the Rural Municipality of Cory, Saskatchewan.

85533 Feb. 8—Authorizing the Sydney and Louisburg Railway Company to remove the station agent and station building at Bridgeport, Nova Scotia.

85534 Feb. 8—Authorizing the Texas Pacific Coal & Oil Company to construct a private road across the Interprovincial Pipe Line Company in the Northwest Quarter of Section 4-51-22-W4M, Alberta.

85535 Feb. 8—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

85536 Feb. 8—Authorizing the C.N.R. to operate the bridge over Hennessey Creek, Ontario, at mileage 1·3 Maynooth Subdivision.

85537 Feb. 8—Approving operation of the C.P.R. trains over siding serving G. Silvester Supplies Limited, in the Manchester Industrial Area, Calgary, Alberta.

85538 Feb. 9—Permitting the removal of slow order at C.P.R. crossing west of the station at Bittern Lake, Alberta.

85539 Feb. 9—Authorizing the Montreal Transportation Commission to remove the diamond crossing, etc. at the crossing of its double track and the C.P.R. Company's private siding to the Dominion Textile Company west of Church Street, Montreal, Quebec.

85540 Feb. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Hay Lakes, Alberta.

85541 Feb. 9—Approving proposed location of storage tanks, etc., owned by Mr. Pierre Olivier, near the C.N.R. tracks at Beauharnois, Quebec.

85542 Feb. 9—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Stony Plain, Alberta.

85543 Feb. 9—Approving proposed location of storage tank, etc., of Great Plains Development Company of Canada, Limited, and Socony-Vacuum Oil Company of Canada, Limited for the loading of crude oil, near the C.N.R. tracks at mileage 66·5 Drumheller Subdivision, Alberta.

85544 Feb. 9—Authorizing the C.P.R. to construct a private siding to serve J. S. Mitchell & Company Limited across Cabana Street, Sherbrooke, Que.

85545 Feb. 10—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and Ayers Limited.

85546 Feb. 10—Authorizing the Saskatchewan Department of Highways and Transportation to relocate and widen the highway where it crosses the C.N.R. at mileage 55·44 Tonkin Subdivision, Saskatchewan.

85547 Feb. 10—Authorizing the C.N.R. to construct a siding across Horner Avenue, in the Township of Etobicoke, Ontario, to serve the Chiovitti Banana Company Limited.

85548 Feb. 10—Dismissing the application of the Northern Alberta Railways Company for authority to remove the station agent at Bluesky, Alberta.

85549 Feb. 10—Dismissing the application of the C.N.R. for an Order sanctioning and approving the closing of the agency at Hilliard, Alberta.

85550 Feb. 10—Permitting the removal of slow order at C.P.R. crossing south of the station at Coquitlam and Dewdney Trunk Road, B.C.

85551 Feb. 10—Permitting the removal of slow order at The Chesapeake and Ohio Railway Company crossing 1·87 miles south of Courtright, Ontario.

85552 Feb. 10—Authorizing the C.N.R. to reconstruct the bridge over Limestone Narrows, Manitoba, mileage 65·1 Flin Flon Subdivision.

85553 Feb. 10—Permitting the removal of slow order at C.P.R. crossing east of the station at Rathwell, Manitoba.

85554 Feb. 10—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85555 Feb. 10—Authorizing the Town of St. Laurent, Quebec, to widen the travelled portion and raise the approaches to a grade of five per cent at the crossing of Cote Vertu Road and the C.N.R., etc.

85556 Feb. 10—Authorizing the C.P.R. to construct its industrial track across Berry Street, in the Municipality of St. James, Manitoba.

85557 Feb. 10—Approving operation of C.P.R. trains over the siding serving the Horton Steel Works Limited, Lethbridge, Alberta.

85558 Feb. 10—Approving proposed location of storage tanks, etc.. of The British American Oil Company Ltd., near the C.N.R. tracks at Gaspe, Que.

85559 Feb. 14—Approving proposed location of storage tanks of The British American Oil Company Ltd., near the C.N.R. tracks at Hudson Bay, Saskatchewan.

85560 Feb. 14—Approving the operation of C.P.R. trains over the private siding serving the Cornwall Canning Company, Taber, Alberta.

85561 Feb. 14—Authorizing the C.N.R. to make signal changes to the interlocker at the crossing of their railway and the railway of the C.P.R. near Camrose, Alberta.

85562 Feb. 14—In the matter of the application of Habitant Food Products Limited, Montreal, Quebec, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 62, and an Order rescinding Order No. 83540, dated April 14, 1954.

85563 Feb. 14—Authorizing the Town of Chelmsford, Ontario, to construct Front Street across the C.P.R.

85564 Feb. 14—Permitting the removal of slow order at the Montreal and Southern Counties Railway Company crossing of Cowie Street, east of the station at Granby West, Quebec.

85565 Feb. 14—In the matter of the application of Burlington Steel Company Limited of Hamilton, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 63, and in the matter of Order No. 85523, dated February 7, 1955.

85566 Feb. 14—Authorizing the C.N.R. to operate over the subway at Oka Road, in St. Eustache sur le Lac, Quebec.

85567 Feb. 14—Authorizing the C.N.R. to protect the crossing of their railway and Gage Avenue, Hamilton, Ontario, by a flagman, in lieu of protection by manually operated gates.

85568 Feb. 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Battleford, Saskatchewan.

85569 Feb. 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Elphinstone, Manitoba.

85570 Feb. 14—In the matter of the application of The Burrard Inlet Tunnel and Bridge Company for a report to the Governor in Council upon By-law respecting pedestrian and vehicular traffic on the Second Narrows Bridge.

85571 Feb. 14—Permitting the removal of slow order at C.P.R. crossing east of the station at Hector, British Columbia.

85572 Feb. 14—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

85573 Feb. 14—Authorizing the C.P.R. to construct a siding to serve Imperial Oil Limited across the highway at mileage 16·4 Rossland Subdivision, British Columbia.

85574 Feb. 14—Authorizing the C.N.R. to operate their trains through the interlocking of their railways near Deer, Manitoba.

85575 Feb. 15—Authorizing the C.P.R. to install automatic signals in lieu of the interlocker at the junction of its Adirondack and Park Avenue Subdivisions at Breslay, Quebec.

85576 Feb. 15—Approving plan showing the rearrangement of the lights on the signal located south of the crossing at the crossing of St. Paul Street and the C.N.R., Plessisville, Quebec.

Edmond Cloutier, C.M.G., O.A., D.S.P,, Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIV OTTAWA, MARCH 15, 1955 No. 24A

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THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

Equalization Case

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THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

In the matter of the general freight rates investigation directed by Order in Council P.C. 1487, dated April 7, 1948 (Equalization Case).

File No. 45464

KEARNEY, J., Chief Commissioner:

NOTES AND REASONS FOR JUDGMENT

1. *Equalization of Freight Rates—Part I, Class Rates*

In its Judgment dated March 1, 1954 (J.O.R. & R. Vol. XLIII, No. 23A of the same date) the Board prescribed a uniform equalized class rate scale for application within Canada west of Maritime territory (and between that area and the Maritimes to the extent of the changes made in the territory west of the Maritimes).

This scale is designated "Appendix B" and supersedes the prior interim scale "Appendix A" referred to in the Judgment. Both scales are reproduced at the conclusion of this report, together with other scales which were proposed.

In the Judgment referred to, the Board said:

> "The Railways indicated that considerable time and work on their part is necessary to implement any new class rate scale, and as at least some undesirable delay in getting that work under way would result if we were to delay our further directions herein until we are able to issue notes on the hearings and reasons for such directions, we have consequently decided to issue now the directions, and modifications of the former Judgment hereinafter set forth, and give notes and reasons therefor in writing at a later date."

In view of the enormous amount of tariff work involved for the railways in compiling the new freight rates to be applicable between all stations on their lines, the Board allowed one year for this to be accomplished and designated March 1, 1955, as the effective date of the new rates.

The compilation of the tariffs has been completed within the time allotted, and they have been filed with the Board to become effective on the date specified. This accomplishment entailed strenuous effort on the part of those directing the compilation and long stretches of tedious toil by those engaged in implementing such directions. I wish to acknowledge the valuable contribution made by the traffic officers and staff of both railways, including those engaged in reviewing the present freight classification, and to congratulate them on their self-sacrificing efforts.

It is expected that the new class rates will also serve as a basic pattern to some extent in revising the "commodity rates" at which a large part of the freight traffic is moved. These commodity rates consist to some extent of mileage scales, and a large number of specific rates. It is estimated there are about 100 commodity groups that will require separate treatment. In some cases these "commodity rates" are related to the "class rates", but in other cases they are not related.

Reference may be made to the following prior Judgments and Orders of the Board on the subject of equalization:

Vol. XLI of the Board's Judgments, Orders, Regulations and Rulings, No. 22 (68 C.R.T.C. 221) of January 10, 1952—Declaration of procedure and program for the General Freight Rates Investigation.

Vol. XLII J.O.R. & R. No. 18A and Order No. 80410 of December 12, 1952 (69 C.R.T.C. 306)—Interim class rate mileage scale designated as "Appendix A"; subject to objection and hearing during a period of approximately one year.

Vol. XLIII J.O.R. & R. 231, consisting of Order No. 82339 of October 9, 1953, which required a 5% reduction in the current class rates within western Canada, Port Arthur, Armstrong and west thereof, and permitted a counter-balancing increase of not more than 10% in the discretion of the railway companies within eastern Canada (except the Maritime Provinces), as a step towards equalization.

During the regional and final hearings of this part of the Equalization Case, the Board received 152 briefs, accompanied by 87 exhibits. Numerous witnesses also appeared and submitted oral evidence. This evidence totalled approximately 3,309 pages of transcript. All of this extensive material has been reviewed in the consideration of these notes and reasons, whether or not specifically referred to.

2. Historical Review

Because of the nature of the prior proceedings, scarcely any historical data was set forth in the previous reports referred to herein. For a clearer understanding, therefore, of the matter, there follows a short historical review of some of the events and conditions which culminated in the directions to the Board contained in P.C. 1487 and Section 336 of the Railway Act.

Prior to 1881 the Government of Canada had constructed certain railway lines in Manitoba, and on these lines the Class Rates charged were approximately those of the "winter" rates in eastern Canada of the Grand Trunk Railway.

In 1881 the Canadian Pacific syndicate took over the Manitoba lines from the Government and commenced to extend the Canadian Pacific Railway through the prairies to British Columbia.

In 1883 it was submitted by the Company to the Government that the Manitoba rates were too low, considering that the prairies west of Manitoba had practically no population, no industries, and therefore very low density of traffic. Consequently, the Canadian Pacific received permission from the Government to increase the Manitoba rates, and to extend them on the higher basis as the line was constructed westward. Dr. H. A. Innis (who was a member of the Royal Commission on Transportation of 1951) in his "History of the Canadian Pacific", at page 176, sets forth that this increase averaged 59%. In the Judgment of the Board in the Western Rates Case of 1914, reference is also made to the same subject in a quotation from a letter dated December 4, 1911, from the Winnipeg Board of Trade to the Minister of Railways and Canals, in which complaint was made of western rates "which were not only higher than those charged in the east, but were a material advance upon those previously in force in Manitoba". In another part of the same letter it was stated that "the charges in the three Prairie provinces were materially in excess of those in the east, the whole averaging an increase of 78%". It was said in evidence before this Board that the increase amounted to 50%.

Whatever the precise amount, it is to be assumed that the increase in the rates referred to was permitted by the Government of the day for good and sufficient reasons at the time it was put into effect in 1883. That action, however, was the mainspring of the situation of which western Canada has complained from time to time since that date. The complaint was that, as Canada developed and the density of traffic grew, the railways did not reduce their western rates, as it was contended they should do.

In 1903 the Railway Act was enacted, and under its provisions the Board of Railway Commissioners (now the Board of Transport Commissioners) was constituted, principally for the purpose of regulating freight rates.

Since that time, either upon complaint to the Board, or of its own motion, or under direction of the Governor in Council to the Board by Privy Council Orders, investigations have been made by the Board and some adjustments made, all with a view to reducing the disparity between the freight rates of western Canada and those of eastern Canada.

Thus, the rates of western and eastern Canada were eventually brought much closer together as a result of the action of the Board in reducing the western rates in the so-called Western Rates Case of 1914, 17 C.R.T.C. 123, and by permitting increases in the eastern rates in the Eastern Rates Case of 1916, Volume VI, J.O.R. & R. 133, and by allowing smaller increases (or no increases) in western Canada as compared with eastern Canada in the post-war series of increases during the period 1918-1920. In fact, some rates by these broad methods were made lower in western Canada than in eastern Canada. Considerable differences, however, continued to exist in many rates, even after these proceedings, and these continuing differences were the cause of further complaints to the Federal Government.

Consequently, in 1925, the Governor in Council issued P.C. Order 886 and directed the Board to make an investigation of the entire freight rate structure of Canada with a view to making a rate structure that "under similar circumstances and conditions" would be equal in its application to all persons and localities.

That investigation lasted for two years, and concluded in 1927 with very little change in the rate structure, because the Board found that "different circumstances and conditions" in eastern Canada versus western Canada did not at that time warrant a uniform scale of freight rates throughout the country (33 C.R.T.C. 127). The situation then remained in statu quo for about 20 years.

Coinciding approximately with the end of the Second World War, the railways of Canada in 1946 found themselves burdened with increasing costs of wages and material, and consequently filed an application for a 30% increase in freight rates (with certain exceptions). This matter was decided in March 1948 and is now known as the 21% Case, because the Board found that amount to be the required increase.

In that case, the Board heard numerous objections that any percentage increase in rates would inevitably create a greater disparity (in cents per 100 lbs.) between the western rates and the eastern rates, and this contention was reiterated with increasing emphasis in the subsequent additional increase cases of 20%, 17%, 9% and 7%, which, with the prior increase of 21%, made a cumulative percentage increase of 98·2% on class rates in the five-year period between April 8, 1948 and March 16, 1953.

In this period the Board did not consider itself in a position to distinguish between one part of the country and another for general increase purposes.

At the risk of repetition, but in order to complete this review, it may be stated that in the meantime the Government issued Order-in-Council

P.C. 1487 of April 7, 1948, and the Board for the second time was directed to make a thorough investigation of the rate structure of the railways and railway companies which are under the jurisdiction of Parliament, with a view to the establishment of a fair and reasonable rate structure which would "under substantially similar circumstances and conditions" be equal in its application to all persons and localities.

The Board commenced this investigation in due season, but was soon faced with the fact that the western provinces were not proceeding with their case before the Board because the Governments of such Provinces considered that the Railway Act, as it then stood, was not suitable to achieve their goal of equalization.

One of the useful documents filed in this investigation by the Railway Association of Canada was a "Study re Equalization of Freight Rates" dated August 15, 1951, which included a review of the history of Class Rates, and a suggested new mileage scale, indicating that an extensive study had been undertaken by the railways on the subject. It was fully discussed in our Judgment of December 12, 1952.

Eventually the Federal Government appointed a Royal Commission, whose report and recommendations resulted in the legislation embodying the national freight rates policy of equalization. The original legislation was contained in Chap. 22, 15-16 George VI, Section 332A, which is now Section 336 of the Railway Act, Chap. 234 R.S. 1952.

The Board found after a survey that this large undertaking could not be carried out by the technical staff of the Board without assistance, and the Board, under the provisions of Section 21 of the Railway Act, procured the services of an expert Traffic Adviser in the person of L. J. Knowles, formerly Freight Traffic Manager in charge of freight rates for the Canadian National Railways system, who had also previously acted as Adviser in freight rate matters to the Royal Commission on Coal (1946) and the Royal Commission on Transportation (1951). With this assistance, the Board within one year of the enactment of the national freight rates policy, promulgated an interim equalized uniform class rate scale for all territory west of the Maritimes, and tentatively required the scale to become effective one year later, subject to hearings and objections to the interim scale in the interval. This scale, known as "Appendix A", is set forth at the conclusion of this report, both as originally prescribed and as increased by the subsequent 9% and 7% general increases. Numerous hearings during the period from March 17, 1953 to January 14, 1954 were held throughout the country, and all parties interested were given an opportunity of approving, rejecting, or suggesting modification of, the proposed interim scale. As the result of such hearings the Board prescribed the Appendix "B" scale in lieu of Appendix "A".

3. Present Class Rate Structure

In order to realize the streamlining and greater uniformity that can be expected to take place by the adoption of equalization, it is necessary to set forth the present class rate structure which is being superseded. Heretofore Canada has been divided into several regions for freight rate purposes, each region being assessed its own particular rates and rate level, especially with regard to class rates. These regions are commonly known as:

The Maritime region;
The Ontario-Quebec or Central region;
The Lake Superior or Algoma region;
The Prairie-Pacific region.

The Maritime region consists of the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and that portion of the province of Quebec lying east of Levis and Diamond, Que.

The Ontario-Quebec or Central region extends westward from Levis, Diamond and Boundary, in the Province of Quebec, to Windsor, Sudbury, Sault Ste. Marie, Capreol and Cochrane, Ontario.

The Lake Superior region as it is named by the C.N.R. and the Algoma region as it is named by the C.P.R. extends westward from Sudbury, Capreol and Cochrane to Port Arthur and Armstrong, Ontario.

The Prairie region consists of the territory Port Arthur, Armstrong and west to and including the eastern slope of the Rocky Mountains. The Pacific region consists generally of the Rocky Mountains and the Pacific slope, together with Vancouver Island. The Pacific region is now merged with the Prairie region for rate-making purposes.

Yukon territory is separated geographically from the foregoing regions, and in any case is excepted from equalization by the provisions of the Act. This territory is also governed by a separate freight classification named the "Northern Classification".

Prior to July 1, 1949, there were five different class-rate regions; from that date there are four. The Maritime region rates are generally 20% less than the Ontario-Quebec or Central region; the Ontario-Quebec or Central region may be considered the next higher-rated region beyond the Maritimes; the Lake Superior or Algoma region (while originally related to the Prairie region rates) has become generally higher for class rates than the Prairie region, due to different increases in eastern and western Canada; the Prairie region rates are considerably higher than the Ontario-Quebec region except for distances up to approximately 70 miles. The Pacific region rates were approximately 15% higher than the Prairie region, but by order of the Board this difference within, from and to the Pacific region, known as the Mountain Differential, was abolished on July 1, 1949, and the class rates of the Pacific region were thereupon reduced to the Prairie basis.

In each of the four regions there is a mileage class rate scale, which may be regarded as the maximum rates; in addition, there are other and lower varieties of class rates in effect in each region.

For example, in the Prairie region there are "distributing" class rates applicable from all of the large centres, but these rates only apply outbound and the maximum mileage rates apply inbound; such distributing rates are published specifically, but they are based upon an underlying or unpublished mileage scale which is 15% less than the maximum mileage class rates; furthermore there are class rates known as "terminal rates" applicable between terminal points such as Port Arthur and Fort William, Ontario; Churchill, Manitoba; Vancouver, New Westminster and Victoria, B.C. and interior western points. These rates are made by deducting 130 miles of distance from the maximum mileage rates for all distances of 420 miles and over—this method of making rates results from Fort William in a reduction from the maximum mileage class rates of 21% at Winnipeg; 13% at Regina; 7% at Calgary and Edmonton; and only 2% at Vancouver. A similar scheme is in effect between Vancouver, Churchill and the prairies.

In eastern Canada, in addition to the maximum mileage class rates, there are "town tariff" rates which are published specifically, but are based upon an underlying mileage scale prescribed by the Board in the International Rates Case of 1907; these rates are also known as "Schedule A" class rates.

Within, from and to northern Ontario and northern Quebec there is a conglomeration of class rates on many different bases, at levels anywhere between the "Schedule A" rates and the maximum mileage class rates.

Within the Maritime provinces there are the maximum mileage class rates, and there are "town tariff" rates to and from the larger centres, based generally on a 20% reduction below the Ontario-Quebec "Schedule A" scale.

Inter-regionally there are rates between eastern and western Canada made by applying an arbitrary rate to Fort William and Armstrong over the local "terminal" rates west thereof; also there are mileage rates between western Canada and the Lake Superior or Algoma region.

Between all of Canada west of Levis, and the Maritime Provinces, there are inter-regional rates made either on a maximum mileage basis, or by lower specific rates constructed by means of "arbitraries" over the rates to or from Montreal.

In all, there are nine mileage scales, either published or unpublished, used in making "class rates" within or between these various localities, and in addition there are specific class rates too numerous to mention in detail, most of them on different levels compared with adjacent sections of the country.

The principal grievance, however, for many years has been that the class rates within western Canada are on a higher level than the rates within eastern Canada, with few exceptions.

These various regional and inter-regional class rates, while originally justified by historical or special reasons for their existence, have been the cause of great inconsistency in the rate structure of the country as a whole, and concerning which numerous complaints of discrimination or undue preference have from time to time been made, but which heretofore were not equalized because of circumstances or conditions which differed one from another.

The vital difference between Order in Council P.C. 1487 and Section 336 of the Railway Act should be noted: the former requires equalization only "under substantially similar circumstances and conditions"; the latter requires equalization without that restriction, so far as is reasonably possible.

4. Freight Classification

The first step in making any freight rate structure is to determine the classification of freight, i.e.: to list and divide the thousands of articles which may be shipped, into a limited number of "classes"; and then to fix a "class rate scale" in cents per 100 lbs. for all distances covered by the railways, for each class in the freight classification.

As a freight classification was already in existence, it has been revised to fit the new class rate scale. The present freight classification contains 10 broad classes, the highest being Class 1, the lowest Class 10, and the "class rates" are graduated to suit this arrangement of classes. By direction of the Board, the new classification has been changed to a more simple form, as part of which the present Class 1 will become Class 100, and the lower classes will become percentages of that class, based upon value, bulk, liability to damage and other relevant considerations. The railways have compiled and submitted the new classification No. 20 to the Board for authorization, subject to any complaints. It is timed to become effective the same date as the "Class Rates" which will accompany the freight classification.

The new classification, will list over 8,000 articles, each of which, as stated, will be classified by percentages of 100.

5. Submission of Scales by C.N.R., C.P.R. and Province of Alberta

Subsequent to the regional hearings, the Canadian National Railways and the Canadian Pacific Railway each submitted a scale for consideration by the Board, it being contended in each case that such scales would be more suitable than the Appendix A scale for the purposes of equalization.

As a result of the introduction of these new scales by the railways, the Provinces and others interested asked for time in which to consider such scales, which was granted, following which the Province of Alberta submitted still another scale (concurred in by the Province of British Columbia), which was offered as a compromise between the Board's scale, the Canadian National scale and the Canadian Pacific scale.

These three additional scales are reproduced at the conclusion of this report and compared for the same distances as the original Appendix A scale, and with the Appendix B scale.

The Canadian National scale is said to have been computed upon a weighted basis. The procedure outlined by the Canadian National on page 11 of its brief (No. 150) is as follows:

> "The level of an equalized class rate scale must be arrived at by computing the average rate in cents per 100 lbs. and the average haul for each of the classes from 1st to 10th inclusive. This can be accomplished by first ascertaining the total revenue, total weight and total ton miles reported for each of these classes. Division of the total revenue received for each class by the total weight of traffic carried at that class gives the average rate in cents per 100 lbs. Division of the total ton miles by the total weight of traffic, in tons, gives the average haul in miles."

This was, in fact, the method used by the Board in determining the interim class rate scale. The Canadian National, however, did not completely follow the method used by the Board in determining the rates other than the first class (or Class 100) for the average distance haul of that class. The Canadian National made the scale from the pivotal point that the average haul for the Class 100 rate (exclusive of Maritime traffic) is 921 miles at an amount of $3.58 per 100 lbs. (exclusive of the 9% and 7% increases).

The basic scale was then developed as follows:

Minimum 42¢ up to 20 miles, then add the following increments for increasing distances:

20- 30	7¢ per 5 miles	or 140¢ per 100 miles
30- 40	8¢ per 10 miles	or 80¢ per 100 miles
40- 100	5¢ per 10 miles	or 50¢ per 100 miles
100-1700	8¢ per 25 miles	or 32¢ per 100 miles
1700-2000	7¢ per 25 miles	or 28¢ per 100 miles
2000-3000	5¢ per 25 miles	or 20¢ per 100 miles
3000-3400	3¢ per 25 miles	or 12¢ per 100 miles

The above figures are subject to the subsequent 9% and 7% increases.

The Canadian National then suggested that the mileage blocks be computed, as shown in its Scale "A", as follows:

	Minimum
.....20 Miles.....	
Over 20 Miles to 30 Miles.....	5 Mile Blocks
Over 30 Miles to 40 Miles.....	10 Mile Blocks
Over 40 Miles to 100 Miles.....	10 Mile Blocks
Over 100 Miles to 750 Miles.....	25 Mile Blocks
Over 750 Miles to 1000 Miles.....	50 Mile Blocks
Over 1000 Miles to 1500 Miles.....	100 Mile Blocks
Over 1500 Miles to 2100 Miles.....	150 Mile Blocks
Over 2100 Miles to 3500 Miles.....	200 Mile Blocks

It was then suggested that the rates for each of these individual groups be based on a 1st class (Class 100) rate midway between the lowest and the highest 25-mile block rate in each group.

The Canadian Pacific's scale was not based on any averaging of the present rates, either weighted or mathematical, but is a theoretical scale. It was computed as follows:

Miles	Length of Block	Rate of Progression for each Mileage Block	Progression per 100 Miles
0- 40	Minimum	60¢	108¢
40- 100	5 Miles	4¢	
100- 200	10 "	6¢	60¢
200- 300	10 "	5¢	50¢
300- 500	25 "	10¢	40¢
500-1000	25 "	9¢	36¢
1000-2000	25 "	7¢	28¢
2000-3250	25 "	6¢	24¢

The above figures include the 9% and 7% increases.

There is little that can be said respecting the technical construction of the "Compromise Scale"; it was based on an average (with some arbitrary adjustments) computed from three alternative scales, namely: the Board's interim scale, the C.P.R. scale, and the C.N.R. scale (advanced by 1·1% to bring the scale up to the C.P.R. revenue basis if applied to C.P.R. traffic).

The main characteristics of the scales offered by the railways in substitution of the Board's interim scale were generally that they produced low rates up to 100 miles, high rates in the middle distances, and sharply tapered rates for the long distances; these suggested changes in the shape of the scale are more accentuated in the Canadian Pacific scale than in the Canadian National scale.

In the case of the "Compromise Scale", its main characteristic is that it would perpetuate in the ratio of two to one the two proposals of the railways compared with the one scale of the Board.

Such were the broad characteristics of the three scales offered in substitution of the Board's interim scale, but later in this report the Board will refer to an interesting analysis in detail of all four scales submitted by Professor Williams of Columbia University.

6. Reduction of 5% in Western Canada and Increase of 10% in Eastern Canada

Upon presentation of the two new railway scales at what was intended to be the final hearing at Ottawa, on October 5, 1953, it became apparent that time would have to be given to the provinces and others to study these scales and that the Board after the final hearing would then be confronted with the necessity of considering three, and possibly more scales, because it was probable that when the railways filed new scales other parties might want to make new counter-suggestions for other scales. (This, in fact, did occur, because at the adjourned hearing the Province of Alberta filed a fourth scale).

Prospects for delay were further apparent by the statement of the Canadian National that it would take one year of tariff work to establish their scale, and the estimate of the Canadian Pacific that it would take two years of tariff work to establish the Canadian Pacific scale.

The Board experienced a sense of frustration and lack of accomplishment owing to past and prospective delays, which was shared by Counsel for the western provinces, although the latter felt obliged to ask for additional time

to consider these new scales, whereupon I made in part the following statement which may be considered as an interim Oral Judgment:—

"Gentlemen, as has been said, the statute required the Board to take appropriate measures to equalize freight rates, and it has been on the statute books for two years. The Board took very nearly a year to devise a uniform mileage scale. We took that scale throughout the length and breadth of Canada from March last until the present time. Let us take stock now and see what concrete evidence we have of any real accomplishment. The answer, unfortunately, is very little for all the time and effort which has been spent. I ask what benefit has Western Canada actually received under the statute today, and the answer, gentlemen, is none . . . This Board, gentlemen, if we can prevent it, is not going to be turned into—to borrow another phrase from Mr. Smith—an immovable body. We are going to move. We feel it incumbent upon us to move, and to move now. We would feel a sense of a lack of appreciation of our responsibility if we failed to do so. After a study of this matter we have concluded that we are going to issue an order and that order will be in the following terms. These are not the exact terms, but here is the purport of the order.

"We will order a reduction of 5 per cent in all class rates in Western Canada, Armstrong, Port Arthur and West, to be made effective on November 15. To compensate for this reduction in revenue within the West, we considered that it would be appropriate to authorize or require an increase within Eastern Canada not exceeding 10 per cent. I will deal with that maximum a little more thoroughly later.

"Traffic between eastern and western Canada is already assisted by the so-called bridge subsidy to the extent of approximately 7 per cent. We felt that no action was necessary in respect of that inter-east-and-west traffic at this time, and we are not going to touch it.

"What this means, gentlemen, is that there will also be no increase in the Maritime territories and western Canada; for that reason and because also of tariff complications that would ensue if the railways tried to adjust their tariffs between eastern Canada and the Maritimes, no increase will be permitted within, from or to the Maritimes at the present time. We may run into some difficulites or anomalies in the long haul traffic."

The purpose of the foregoing Order was to take an immediate measure calculated to narrow the gap between the class rate scales of western and eastern Canada and thus leave a lesser discrepancy to be equalized later. In short, the Order was intended to bring equalization at least one step nearer.

The effect of the above announcement was that the railways were required to make an interim reduction of 5% in the western rates, and were permitted to make an increase up to 10% in the eastern rates. It was anticipated by the Board that not all the class rates in the East would be advanced 10%, and, further, there might be some loss in volume of traffic due to the increase in rates, which would probably result in an average increase in revenue of only 7%. The Board's calculations showed that an average increase of 7% in eastern Canada would balance a reduction of 5% in western Canada.

The changes in the rates became effective on November 15, 1953, and the railways took full advantage of the permission to make a general increase in the class rates (other than Competitive rates and Maritime rates) in eastern Canada, by taking the 10% increase.

The Board's action, as might be expected, met with commendation from the interested parties of western Canada, and on the other hand no complaint as to the effect of its Order has been received by the Board from eastern Canada shippers nor from the railways.

The exhibits and statements filed with the Board and rates quoted herein do not include the temporary 5% reduction in western Canada, nor the temporary 10% increase in eastern Canada, unless stated specifically in the context.

7. Review of Interim Uniform Scale

Before setting forth the objections made to the Board's interim scale, it may be well to state in more detail than was done in the Judgment of December 12, 1952 how the interim scale was computed, because some enquiries arose during the regional hearings as to the method used in making the "weighted" rate scale. This information it is hoped should also prove helpful to traffic experts engaged by shippers when future waybill analyses are made available to them by the Board.

The pattern for the interim class rate scale was obtained from the Board's waybill studies of 1949 and 1951, as set forth hereunder. In Interstate Commerce Commission circles there is a conflict of opinion as to how far such waybill studies can be relied upon, but in the opinion of the Board when counter-checked by the practical experience of traffic experts the margin of possible error is minimized. In any event they are the only tools available to carry out our allotted task.

Most of the class rate traffic is carried at "special" class rates, which consist of an aggregation of "Schedule A" rates and other special class rates in eastern Canada, and the "distributing" class rates and other special rates in western Canada, and the special class rates between eastern and western Canada.

It is also true that some relatively small amount of traffic was shown in the waybill studies as carried at the higher "standard" mileage rates, and therefore the total class-rate revenue, by using "special" class rates only, would be somewhat understated.

On the other hand, it had to be taken into consideration that the 1949 waybill study for two of the representative days in that study included the Mountain Differential, which was eliminated by the Board's Order on July 1st, 1949; to that extent the revenue at the special class rates would be somewhat overstated.

It was considered that these two factors, i.e.: the understatement of revenue by omitting the standard mileage traffic, and the overstatement of revenue by the inclusion of the Mountain Differential in the 1949 waybill study, would more or less offset each other, and therefore the interim scale for all practical purposes could be computed upon the revenue from the "Special" class rates only.

When the railways filed new rate scales at the hearing of October 5, 1953, it was called to the Board's attention that there was a considerable volume of international traffic carried from the boundary into western Canada at standard mileage class rates, and a small amount in the opposite direction, which were not included in the original waybill study. The subsequent inclusion of this traffic would therefore cause a fairly substantial reduction in the revenue by applying the Board's interim scale.

The special-rated traffic included traffic to and from the Maritime provinces, much of which traffic is generally carried at rates based upon Montreal, plus arbitraries over Montreal for the haul east of Montreal. Eastbound traffic to

the Maritimes is carried at "normal" rates. Westbound traffic from Maritime territory is subject to the statutory 20% reduction for the haul within the Maritimes on such movements, but the railways are compensated for this reduction by subsidies.

As the suggested interim scale was to be made upon a weighted average of all class-rate traffic, it was considered that the revenue on Maritime traffic at "normal" rates should be included in the computation of the uniform scale for application West of Levis and Diamond, Que.

As there was no ready method of pro-rating the revenues on Maritime traffic via Diamond, Levis or Boundary, Que., nor of adding the subsidy to each waybill for Westbound traffic to bring the rates up to normal, the actual revenue on all traffic received by the railways at all the "special" class rates shown in the waybill studies of 1949 and 1951, was taken as it existed in the waybill studies. It was found moreover that if the Maritime subsidy paid to the C.N.R. and C.P.R. were added to the entire freight revenue in order to have the effect of restoring the westbound revenue to the "normal" basis, it would amount to only 1·3% of the total intra-Canadian freight revenue. This factor appeared to be so small that it was disregarded in making the original calculations for a uniform scale.

If the Board's interim scale should not have included Maritime traffic, the railways' calculations failed to take into account the revenue on Maritime traffic, because under the Board's Judgment the rates on class traffic to and from the Maritimes will be changed (increased or reduced) to the same extent as the rates to or from Montreal, Diamond, Levis and Boundary. On the whole it does not matter which basis of calculation is accepted, so long as the class-rate revenue produced by any scale prescribed by the Board is finally adjusted so that it is not far apart from the revenues produced by the present regional rates, after all pertinent factors have been considered.

The result was that the class rate traffic of all Canada, as shown in the waybill studies under the heading of "Special" class rates, was the basis used for arriving at the Board's scale, as follows:—

CARLOAD CLASS-RATE TRAFFIC CARRIED AT "SPECIAL" RATES FOR 4 DAYS, AS SHOWN IN WAYBILL ANALYSIS, 1949

ALL CANADA

Class	Revenue	Weight (pounds)	Average haul (miles)	*Average Rate (Cents per 100 lbs.) Actual	†Plus 20% and 17%
1.....	$113,059.50	3,701,680	1,316	305	428
2.....	77,035.76	2,368,552	1,597	325	456
3.....	46,719.76	2,589,296	1,020	180	253
4.....	112,423.91	8,011,405	1,042	140	197
5.....	406,565.71	49,598,450	646	82	115
6.....	74,164.57	9,987,332	639	74	104
7.....	25,343.91	4,051,962	693	63	89
8.....	16,121.35	2,288,243	991	70	98
9.....	46.00	20,000	114	23	33
10.....	28,119.89	7,343,797	473	38	54

LESS THAN CARLOAD CLASS-RATE TRAFFIC CARRIED AT "SPECIAL" RATES FOR 4 DAYS, AS SHOWN IN WAYBILL ANALYSIS, 1949

ALL CANADA

Class	Revenue	Weight (pounds)	Average haul (miles)	*Average Rate (Cents per 100 lbs.) Actual	†Plus 20% and 17%
2 × 1.....	$ 8,526.89	284,964	589	(299)	
Converted to 1st class.....				150	211
1½ × 1.....	$ 13,952.70	478,465	712	(292)	
Converted to 1st class.....				196	275
1.....	$169,759.16	8,971,040	670	189	266
2.....	95,049.21	6,622,121	528	144	202
3.....	113,370.72	12,308,225	394	92	129
4.....	50,226.73	7,961,888	273	63	89

CARLOAD CLASS-RATE TRAFFIC CARRIED AT "SPECIAL" RATES FOR 3 REPRESENTATIVE DAYS, JANUARY, APRIL AND JULY, AS SHOWN IN WAYBILL ANALYSIS, 1951

ALL CANADA

Class	Revenue	Weight (pounds)	Average haul (miles)	*Average Rate (Cents per 100 lbs.) Actual	†Plus 17%
1.....	$163,573.21	4,235,240	1,355	387	453
2.....	82,780.54	2,178,210	1,515	380	445
3.....	42,769.29	1,843,712	1,141	232	271
4.....	104,826.52	6,949,346	951	151	177
5.....	317,687.89	32,039,182	685	99	116
6.....	111,879.86	10,817,058	767	103	121
7.....	22,701.05	3,369,778	646	67	78
8.....	14,380.66	2,234,056	745	65	76
9.....	No 9th class traffic carried.				
10.....	25,851.89	5,481,216	468	47	55

* Fractions disposed of to nearest cent, in accordance with usual rule.
† General increases permitted subsequent to date of waybill study.

The above statistics, as will be noted, resulted in obtaining five 1st class rates (or class 100 rates) for five different mileages.

The problem then was to ascertain what a class 100 rate would be for each of the other classes at their respective average mileages for both carloads and less-than-carloads for 1949, and carloads for 1951. Examination of the place which the lower classes now occupy in the western distributing scale, and in the eastern "Schedule A" scale, and comparison with the percentages for the lower classes which the Railway Association submitted in their study of August 15, 1951, indicated that the latter, with slight modification, could be adopted as representing the average percentage which the lower classes bear to class 100. These percentages, as revised, are set forth in the Board's former judgment.

Applying that basis, the lower classes were projected to class 100 by a simple equation; for example, 2nd class being fixed at 85% of class 100, all that it was necessary to do was to take the average 2nd class rate from the waybill studies, multiply by 100, and divide by 85.

This method produced the following table; which is based on 25-mile blocks, and where two or more rates occurred in the same mileage block they were averaged:

STATEMENT SHOWING AVERAGE MILEAGE AND AVERAGE RATE FOR EACH CLASS, BOTH CARLOADS AND LESS-THAN-CARLOADS, CARRIED IN 1949, AND CARLOADS CARRIED IN 1951, AT "SPECIAL CLASS RATES", AS ABSTRACTED FROM WAYBILL STUDIES

(INCLUDING ALL PERCENTAGE INCREASES TO JULY, 1952).

ALL CANADA

Average and block distance, carload or L.C.L. and year				Class rates in cents per 100 lbs.								**	‡Projected to Class 100
				1	2	3	4	5	6	7	8	10	
Miles	Miles												
273	275	L	1949				89						162
394	400	L	1949			129							184
468	475	C	1951									55	200 Av.
473	475	C	1949									54	196 198
528	550	L	1949		202								238
589	600	L	1949	*211									211
639	650	C	1949						104				260
646	650	C	1949					115					256 Av.
646	650	C	1951							78			240 252
670	675	L	1949	266									266
685	700	C	1951					116					258 Av.
693	700	C	1949							89			274 266
712	725	L	1949	†275									275
745	750	C	1951								76		253
767	775	C	1951						121				303
951	975	C	1951				177						322
991	1000	C	1949								98		327
1020	1025	C	1949			253							361
1042	1050	C	1949				197						358
1141	1150	C	1951			271							387
1316	1325	C	1949	428									428
1355	1375	C	1951	453									453
1515	1525	C	1951		445								524
1597	1600	C	1949		456								536

Av.—Average.

* Converted from 2-times 1st class.

† Converted from 1½ times 1st class.

C—Carloads.

L—Less than carloads.

** Ninth class omitted, as there was only one shipment (within Maritime territory); therefore not used for weighted scale.

‡ Projected for classes 2 to 10 by percentages of 100 as follows: 2nd 85%; 3rd 70%; 4th 55%; 5th 45%; 6th 40%; 7th 32½%; 8th 30% and 10th 27½%.

As there was no average rate for any distance less than 273 miles, it was necessary to determine some rate and distance on which the scale below 273 miles could be pivoted. This was considered to be $1.00 per 100 lbs. for 100 miles. The reason for adopting this rate and also the method of constructing the scale from 5 miles to 100 miles, was stated in the Board's former judgment.

It will be noted that the above scale has an uneven rate of progression; the next step therefore was to compute an even rate of progression.

The distance of 400 miles is nearly the average distance for which all freight is carried in Canada, and is therefore the most important point in the mileage table.

The difference between the rate at 100 miles and the rate at 400 miles was 84¢ per 100 lbs., for 300 miles, and divided by three the rate of progression would be 28 cents per 100 lbs. per 100 miles.

The next important pivotal point is 700 miles which approximated the average distance for which carload class-rate traffic was carried in 1949, and it also includes the limit of the "Schedule A" territory, as prescribed by the Board, i.e. Montreal-Sault Ste. Marie. The difference between the blocks of 400 and 700 miles is 82 cents, which divided by three produces a rate of progression of 27·3 cents per 100 miles.

The next important mileage is the 1375-mile block, which includes the distance between Montreal and Winnipeg. The difference between the 700 mile and the 1375-mile block is $1.87, which divided by $6\frac{3}{4}$ makes a progression of 27·7 cents per 100 miles.

It became obvious, therefore, as the weighted scale produced an average increment per 100 miles of 28 cents, 27·3 cents and 27·7 cents at the important key mileages of 400, 700 and 1375 miles respectively, that the interim scale must be constructed upon a progression of 28 cents per 100 lbs. per 100 miles from the distance of 100 miles to 1375 miles; no other progression would produce the same revenue between these distances.

Beyond 1375 miles the inflation in the east-west rates west of Winnipeg caused an upward progression of the average weighted scale, because the next increment turned out to be about 37 cents per 100 miles at the weighted average progression, computed from the waybill studies, i.e.: from 1375 to 1600 miles the difference was 83¢ per 100 lbs., which is equivalent to 36·9 cents per 100 lbs. per 100 miles. This increase in the progression of the scale resulted from the method of making rates between eastern and western Canada by deducting 130 miles off the rates from Fort William westward, and adding an arbitrary rate for the haul in eastern Canada to the rates from Fort William westward. It was recommended by the Royal Commission that this method of making rates should be abolished, and it was evident, therefore, that the increment of 28¢ per 100 miles from 100 to 1375 miles inclusive would have to be continued throughout western territory, instead of maintaining the present inflation in the rates beyond Winnipeg. This corrective action is one of the reasons why the Board's scale produced less revenue than the current rates. The present method of making rates between eastern and western Canada was brought about by the Manitoba Agreement of 1901 with the Canadian Northern Railway, and once that provincial agreement was found by the Supreme Court of Canada not to be binding upon a federally-chartered railway, it appears that the method of rate-making resulting from that agreement could have been "written out" of the rate structure.

Had that been done, the reductions west of Winnipeg necessarily caused by eliminating the effects of the agreement, would have fallen upon the

railways' revenues. (No doubt eventually the railways would have recouped this loss of revenue, either on other traffic or in a subsequent general increase in rates).

The concluding action in compiling the interim scale was therefore to adopt a rate of progression of 28 cents per 100 lbs. per 100 miles, from 100 miles upward; and divide the 100-mile block into four parts of 25 miles each at 7 cents per block in order to have as small a difference as possible from group to group, for the reasons given in the prior Judgment.

The only departure from the 28¢ increment per 100 miles in the interim scale was made at 2601 miles, where it was reduced to 24¢ per 100 miles, and continued at that rate of progression to 3250 miles, in order that the mileage scale for the longest distance to be covered, i.e. between Stanhope, Quebec and Prince Rupert, would be approximately the same as the current rates, because it was obvious that as the weighted average was made up of the existing rates, the rate for the longest distance could not be any higher than existed at the time the scale was made. The interim scale thus "ironed out" the inequalities in the somewhat uneven average rates as developed from the waybill studies.

Tapering of Scale—The foregoing statement however does not mean that the interim scale does not "taper off" as distance increases. "Tapering" should not be confused with "Rate of Progression". Tapering in a rate scale is measured by the decline in revenue per ton-mile as distance increases.

The tapering effect can be caused by adding the same increment per 100 miles to the initial rate for 100 miles (or to any other initial rate) as will be seen by taking a few examples from the interim scale, as follows:—

Distance	Class 100 Rate per 100 lbs.	Revenue per ton per mile
100.....	$1.00	20·0 cents
200.....	1.28	12·8 "
300.....	1.56	10·4 "
400.....	1.84	9·2 "
500.....	2.12	8·5 "
1000.....	3.52	7·0 "
1500.....	4.92	6·6 "
2000.....	6.32	6·3 "
2500.....	7.72	6·2 "

It will be seen that while a fixed amount of 28 cents has been added for each 100 miles from 200 miles upward, nevertheless the revenue per ton-mile continually declines as the mileage increases.

Progression of Scale—In passing it may be noted that the Interstate Commerce Commission, in its final decision upon uniform class rates Docket 28,300, arrived at the conclusion that the changing progression of rates should generally be carried forward only to a specific point in the rate structure, and should from that point continue unchanged.

Counsel for both the Province of Alberta and the Canadian Pacific quoted a statement of the Interstate Commerce Commission to the contrary, from 262 I.C.C. 447, to support the thesis that rates of progression should continually decline as distance increases, and it would therefore be appropriate to set the record straight. The quotation was:—

> "One of the criteria of a smooth progression in a rate scale is that each successive percent of increase in the rate, at each 100-mile interval, for example, shall be less than the one immediately preceding ... (262 I.C.C. 447, at p. 643)."

This announcement was made in the Commission's interim decision respecting uniform class rates in the year 1945, and the Commission at that time came to the conclusion that its uniform class rate scale should continue to taper off by a declining rate of progression throughout all distances; for example, from 800 to 900 miles the rate per 100 miles was 14 cents, whereas from 2400 to 2500 miles it was 7 cents—these rates of course were later subject to several percentage increases.

However, in its final decision of July 26, 1951 (281 I.C.C. 213) a scale was prescribed by the I.C.C. in which the increment per 100 miles or progression of the scale, does not decrease at any point between 800 miles and 3,000 miles. The increment per 100 miles for this entire distance was set at 20 cents per 100 lbs., (now 23 cents with the later 15% increase in Ex Parte 175). This result, it may be noted, was achieved mainly as the result of cost studies made by the Commission's statisticians.

The idea that persisted for many years that the progression of rates should continually decline at all distances because of alleged continually decreasing costs as the haul lengthened, appears to have been proved wrong, at least so far as the United States is concerned.

The Board has not had occasion to undertake the extensive task necessary to determine railway costs for Canada at various mileages, but in the "Mountain Differential" passenger case decided in March 1953, the Board was presented with statistics of regional costs of operation i.e. (working expenses, excluding income tax) per thousand gross ton miles as follows:—

	Pacific Region	Prairie Region	Eastern Region	Atlantic Region	Source
C.N.R.	$4.93	$4.61	$5.96	$7.31	Exhibit 67
C.P.R.	$5.79	$4.43	*$6.26		Exhibit 32

* Includes Atlantic territory.

The above statistics indicate that if tapering of rates were made upon a cost basis for a scale applicable throughout Canada, the increment per 100 lbs. would be high *at both ends of the scale,* but would be low in the middle. This situation in Canada, therefore, also does not support the theory of continually decreasing costs as distance increases.

The tapering of long-distance rates as a question of policy and judgment "so that traffic will move freely" is quite another matter, which is dealt with later herein with regard to the prescribed scale, Appendix B.

8. Regional and Other Objections to the Interim Scale

The interim class rate scale was extensively discussed by the witnesses who appeared before the Board at the regional hearings, or who submitted briefs without oral representations.

No one who appeared objected to the principle of equalization of class rates, and numerous witnesses for some provinces and various organizations approved the scale itself, but a number of suggestions were made by various parties for changes in the application of the scale.

These suggestions were made principally to preserve special characteristics of the present class rate structure, or to take into account long-standing competitive relationships in trade or market patterns.

As most of the discussions and suggestions with respect to the application of the interim scale were based upon provincial or territorial differences, the evidence with regard to such matters will be reviewed, so far as possible, by provinces, and then any general objections by trade organizations, and the railways, will be set forth.

To sum up the objections made to the interim class-rate scale at the regional hearings, they are as follows:—

British Columbia.—The principal objection voiced at Victoria by numerous parties was that the straight mileage scale should not be made applicable at Victoria, but this point should be grouped with Vancouver on all class-rated traffic between Victoria and points east of Hope, B.C.

A secondary complaint was that the C.P.R. computed mileage between the mainland and Victoria via car barge between Vancouver and Ladysmith, then the E. & N. Railway, at a distance of 107 miles, whereas the C.N.R. used a distance of 74 miles between Port Mann and Victoria. The marine distance between Vancouver Harbour and Victoria Harbour is said to be 81 miles. It was suggested that if mileage were finally decided to be the basis of freight rates, then something lower than the actual mileage should be assessed between Victoria and Vancouver because of the lower cost of water transportation.

After the B.C. hearings, the Chamber of Commerce of Prince Rupert filed a brief stating that while it had no objection to the interim mileage scale being applied between Prince Rupert and Prairie territory, it desired that Prince Rupert and Vancouver be grouped together for rates between these two points and eastern Canada.

Alberta.—At Calgary the main objection from shippers in southern Alberta was the lack of joint rates between local points on the Canadian Pacific lines and local points on the Canadian National railways. The rates are constructed generally at present by combination on the lowest-rated junction point, with the exception of the rates on coal and lumber, which are joint rates at a slightly higher basis than the one-line rates. (Since the hearing the railways have also made lower joint-rates on cement in this area.)

To a small extent a similar complaint was made with respect to rates between Canadian National local points in Alberta and Canadian Pacific local points.

At Edmonton the principal complaint was voiced by the Provincial Government which said through its witness that the interim scale had evidently been made lower by the Board up to 400 miles for the purpose of taking care of truck competition in Ontario and Quebec (which was an erroneous assumption) while the rates for the longer distances between Alberta and eastern Canada have been made on a higher basis than is desirable to move long haul traffic. It was suggested that the Board's interim scale revert to a higher basis from 1 to 400 miles by using the western distributing class rates for such distances, and, to offset these higher rates, that lower rates than those suggested in the interim scale should be made between Alberta and eastern Canada. After the Ottawa hearing of November 30, 1953, however, the Province of Alberta modified this position by advocating jointly with British Columbia a compromise scale which would on the whole be somewhat lower than the western distributing scale.

Saskatchewan.—At the hearing at Regina there were no particular objections to the interim scale; the only matters that might be considered in the nature of objections were the doubts expressed that the proposed scale would be low enough to meet competition in eastern Canada, and that consumers in Saskatchewan should therefore be afforded some protection against high rates in that province to offset low competitive eastern rates, by way of subsidy, as the ultimate solution to the problem of equitable distribution of the total cost of providing railway service.

The Hudson Bay Route Association which appeared at this hearing was quite satisfied with the Board's scale for application between the Prairies and

Churchill, Man.; its only suggestion was that the scale should be made effective on August 1, 1953, in order that the Hudson Bay route could have the benefit of the scale for importations via Churchill in the Fall of 1953.

Manitoba.—The principal objections to the interim scale at the hearings at Winnipeg came from the Manitoba Transportation Commission, although it took no definite stand for or against equalization. The brief advocates that the method of constructing rates between Fort William and Winnipeg by deducting 130 miles from the standard mileage rates should be continued by the Board. The brief of the Commission also questioned the use of the weighted average for one or two years, as the result may have been different ten years ago, and presumably the result would produce a different set of rates ten years from now.

There was also general comment by the Commission, the City of Winnipeg and other bodies that the trade position of Winnipeg should not be disturbed by equalization.

The Manitoba Federation of Agriculture and Co-operation, while approving the interim scale as a whole, said there are some aspects of the proposal which give concern to the Federation and these principally are the increase in the rates between Montreal, Windsor and Manitoba, due to the greater mileage than Toronto, and disturbances to industries located at Winnipeg. On the contrary, so far as rates between the East and the West are concerned, they desire to obtain the application of mileage rates between Manitoba and such points as Sudbury and North Bay, where the shorter distances would make lower rates.

Ontario.—At the hearing at Port Arthur, the Chambers of Commerce of Fort William and Port Arthur opposed any suggestion of maintaining the "constructive mileage" between Fort William and points west thereof, because the use of this basis constituted an inducement in securing the location of industry in Manitoba. The Chambers of Commerce did not favour the 25-mile block basis for long-distance rates, but on the contrary advocated the retention of Toronto and Montreal in the same rate grouping for rates between eastern and western Canada.

At the hearing at Windsor, Ontario, the Windsor Chamber of Commerce raised no question as to the method of constructing the scale or the level of the scale, but objection was taken to the mileage groupings on traffic to both western and eastern Canada. As to western Canada, it was pointed out that while Windsor is geographically closer to the West than Toronto or Montreal, the use of all-rail mileage for constructing rates between Windsor and western Canada via Canadian routes, due to the back haul from Windsor via Toronto and Sudbury to western Canada, would cause the Windsor rates to be higher than from Toronto, or even Montreal. The Chamber of Commerce objected vigorously to the use of the interim mileage scale for that reason, and recommended one of three alternatives—

(*a*) Use shorter mileage via U.S. routes applied to the Board's scale;

(*b*) Use lake and rail mileage,

or

(*c*) Leave groups A and B in effect as they exist at the present time.

As to eastern Canada, the Chamber of Commerce recommended a grouping of 60 miles, so that Windsor would be grouped with Chatham, Ontario, as it is at present.

One of the large automobile producing companies at Windsor concurred in the submission by the Chamber of Commerce, with additional emphasis on a study of increase in their total freight bill, which would result from the

equalized scale. A comparison of the statistics shows that there would be an average reduction of $10.01 for each automobile or truck from Windsor to western Canada, and an increase of $10.86 to eastern Canada. This shows that the interim scale is as close as can be made for equalization purposes, but the automobile industry objected to the fact that as there were more automobiles shipped to eastern Canada than to western Canada, there would be a total increase in the freight bill of approximately $100,000.

The representative of a chemical company at Sarnia, Ontario, in addition to advocating the use of mileages to western Canada via the United States, suggested joint rates via the route of the Canadian National-Canadian Pacific through Montreal, Toronto or North Bay for the purpose of arriving at lower rates to eastern Canada than via the Chesapeake & Ohio-Canadian Pacific route. This company also objected to the "lack of tapering" (meaning rate of progression) in the rates of the interim scale and the small size of the 25-mile block for distances from 100 miles to 2,600 miles.

At the hearing at London, Ontario, a number of shippers appeared and requested that London be grouped with Toronto in the making of rates between eastern and western Canada; if this were done they would have no objection to the proposed equalization of class rates. It was also suggested by some shippers, in the event that London is not arbitrarily maintained in the Toronto group, that the mileages from London to western Canada be computed via the lake and rail routes.

At Toronto, Ontario, one of the principal submissions was from the Canadian Industrial Traffic League. The League stated that true equalization cannot be fully accomplished as long as statutory rates remain in the rate structure. The League approved the progression in the interim scale, i.e. in 25-mile blocks for distances over 100 miles generally, but at the same time raised the question that this type of scale would be the cause of disturbance of groups A and B. Under cross-examination, as stated elsewhere herein, the witness voiced the opinion that if the increment from one group to another were not high, he would have no objection to groups greater than 25 miles in extent. The League advocated that joint class rates be established between all local points on any one railway and all local points on all other railways, but conceded that this scale might be on a somewhat higher basis than the one-line scale. It was also suggested that in the computation of distances for joint rates, the use of circuitous routes should not be permitted. The League disagrees with the interpretation placed by the Board on Section 329 (now 332(b) of the Act) in the Board's Judgment respecting the interim scale, and the League argued that shippers cannot pay specific rates higher than the mileage rates, because the Board has heretofore held that where two tariffs are in effect, one lower than the other, the shipper is entitled to the lower rate. The League suggested that further Parliamentary action is required to clarify this section by the use of the words "in the alternative" for the words "in addition" with respect to specific rates. This would abolish the publication of a mileage scale where specific rates are published.

At the Toronto hearing other organizations such as the Canned Foods Association of Ontario, the St. Catharines and District Chamber of Commerce, the Brantford Board of Trade and the Owen Sound Chamber of Commerce and the Owen Sound Industrial Commission objected to any disturbance in the grouping of traffic to western Canada, as compared with Toronto. Contrary to the anticipation of the Board, Toronto shippers, apparently viewing the matter broadly, registered no objection to the retention of groups A and B.

Subsequent to the hearing, the Sarnia Chamber of Commerce and the Electric Auto Lite Ltd. filed written briefs objecting to any higher rate on traffic from Sarnia than from Toronto to western Canada.

Quebec.—Practically the sole point of complaint made at the Montreal hearing, and the adjourned hearing at Ottawa, was that the institution of rates made on 25-mile blocks would break up the large Ontario-Quebec blanket group, (commonly called groups A and B) on traffic to and from western Canada, and result in the Province of Quebec, owing to its longer distances to western Canada, having to pay somewhat higher rates than Ontario.

Briefs to this effect were filed by the Province of Quebec, City of Montreal and the Montreal Board of Trade and La Chambre de Commerce du District de Montreal (joined with other Chambers of Commerce) and by a number of individual shipping firms. All of these briefs recommended retention of groups A and B, or at least the making of rates on a common basis from Montreal and Toronto to western Canada.

There was very little discussion, in fact, of the level of the rate scale, although it was quite apparent that in reducing the rates within western Canada and between eastern and western Canada, there would necessarily have to be some increase in the rates within Ontario and Quebec, and between these two provinces. Those who appeared before the Board for Quebec interests were more concerned with the relationship of rates to and from western Canada, and generally would be content with the continuation of parity with Toronto, without suggesting any specific method by which this could be attained, with one exception, which follows:

The Montreal Board of Trade suggested a specific method of retaining the Ontario-Quebec grouping by averaging the distances from Quebec and Ontario points to Fort William and then constructing the rates on half the average mileage to Fort William, plus the mileage rates beyond. It appeared to have been overlooked however that the Royal Commission in its report definitely recommended against the making of rates by the so-called method of constructive mileages (page 96 of the Royal Commission Report).

The Montreal Chambre de Commerce filed an extensive brief indicating that that organization had made a very close study of the principles of railway rate-making. This brief quoted numerous authors upon the theory and practice of rate-making, and went at great length into the cost and value of service theories and the elements of terminal costs and line-haul costs as affecting rates; but all other considerations were then subordinated in this brief to the one outstanding expedient of submerging the distance factor in the over-riding interest of competition, by placing all competing manufacturing points in Quebec and Ontario so far as possible within the same rate group on shipments to western Canada.

Maritime Provinces.—Numerous shippers appeared in support of the Maritime Transportation Commission brief, and also filed briefs of their own. While individual situations were thoroughly outlined, the main submissions were: (1) that the Maritime groupings and arbitraries over Montreal should not be disturbed; (2) that the interim scale proposed by the Board was objected to as producing increases in rates between the Maritimes and their natural market of Quebec and Ontario, while reducing the rates on only the limited amount of traffic between the Maritimes and western Canada; (3) that the economy of the Maritimes is such that freight traffic between the Maritimes and other territories can stand no further increases in freight rates brought about by equalization.

Other objections.—At the hearing at Ottawa October 5th-8th, 1953, some general objections were filed by additional parties who had not taken the opportunity of doing so at the regional hearings. These parties consisted of La Chambre de Commerce of Montreal, and several other Chambers of Commerce in the Province of Quebec. The brief of La Chambre de Commerce has been dealt with under the title of "Quebec".

In addition there were briefs from the Canada Steamship Lines, the Canadian Manufacturers Association Inc. and the Canadian Gypsum Company.

The Canadian Manufacturers Association submitted that certain broad principles should be observed as follows: (1) While taking no position as to the construction or the level of the scale, the Association suggested that the final scale approved by the Board should cause the least disturbance to the present traffic movement; (2) that the method of computing mileages should be the same as that used by the Interstate Commerce Commission of the United States, i.e., that the shortest possible rail route should be used regardless of whether it means using more than one carrier to determine the shortest route; (3) that in devising group-to-group rates under Section 332(b) of the Act, they should be so made as not to conflict with the mileage scale; (What this really means is that the group rates should always be made the same as, or lower than, the mileage scale, i.e., they should not in any instance be higher than the mileage scale.) (4) while approving the percentage method of making class rates by percentages of class 100, the Association reserves the right to make further submissions with respect to additional "percentage" classes in the classification; (5) the Association objects to the making of water-rail rates by differentials below the all-rail rates, and submitted that the Board should investigate the cost of moving traffic via water-rail routes, and especially all-water routes, with a view to the establishment of rates based on the characteristics of water-borne traffic, rather than relating such traffic to all-rail rates; (6) the Association suggested that the Board has not gone far enough by limiting the proposed uniform class rate scale only to joint movements where current single line basic rates are applied generally over two or more carriers, but contends that the joint scale should be applied over all the carriers.

The Canadian Gypsum Company submitted that the class rate structure should follow certain basic fundamentals, the principal of which are: that it be applied uniformly in all territories and consequently it should be published on a mileage basis throughout the country; that only where there are large producing points or a considerable movement of traffic is it necessary to publish point-to-point rates, which should be on the same basis as the mileage scale, thus avoiding discrimination by group rates; and that the mileage scale should be applied jointly between all carriers in Canada.

Objections of the Railways

The main objection of the Canadian National was that the Board's interim scale was too low and also did not "taper" sufficiently. The scale submitted by that railway was intended to remedy these deficiencies.

The Province of Manitoba, however, objected that the C.N.R. method of reconstructing the Board's scale would result in "shifting the burden" of freight rates so that Manitoba, instead of receiving on the Board's scale a decrease of $840.55 on carload traffic (year 1952 statistics) based on the waybill study figures for four days, would have to pay an increase of $7,886.72 under Canadian National Railways Scale "A", which increase would be transformed into additional reductions for Saskatchewan and Alberta by the proposed reduction on long-haul traffic.

Two other minor items should be noted in the C.N.R. scale: for 7th class traffic the railway advocated 35% of Class 100, although its original computation of the weighted average shows 31·8%; the second matter is the suggestion of the C.N.R. that 9th class should be made 28½% of 100.

The objections to the Board's interim scale submitted by the Canadian Pacific Railway Company may be briefly summarized as follows: (1) that the interim scale was too low by 8·2% to produce the same earnings for the C.P.R. as it now receives from the regional rates; (2) that the principle of separate

rates for carload and less-than-carload traffic for distances up to 35 miles is not sound, and the C.P.R. recommends that one scale of class rates should apply to both carloads and less-than-carload traffic; (3) that the uniform progression of the interim scale was incorrect, and should instead change fairly frequently in the shorter distances and continue in diminishing amounts until the distance of approximately 1000 miles has been reached; beyond 1000 miles there should be some further taper in the scale "to encourage traffic to move"; (4) that the mileage scale itself should not be published, in order not to conflict with specific rates which might be higher or lower than the mileage scale; (5) that the suggested breaking up of Eastern Canada groups A and B into 25-mile blocks was inadvisable and that, instead, the southern part of groups A and B from Montreal to Windsor, and including points north thereof as far as Goderich, Owen Sound, Wingham, Teeswater and Ottawa, should be averaged, making a group of 211 miles in extent, and north of the above-mentioned territory two "buffer" groups should be established on a mileage basis; (6) between points in the territory east of Montreal and points west of Montreal, rates should continue to be constructed by arbitraries over Montreal.

9. Review of the Four Proposed Scales

At the final hearing of this matter in Ottawa, Counsel for the Province of Alberta introduced as a witness a well-qualified authority on transportation rates, Dr. E. W. Williams, Associate Professor of Transportation of Columbia University, for the purpose of making a constructive comparison of all four scales. This witness had held a number of important appointments as adviser to several departments of the United States Government on transportation matters.

As to the scope of the subject, the witness said:

> "The task upon which Canada is embarked under the provisions of Section 336 of the Railway Act is both formidable and unique. Nowhere else, as far as I am informed, has a like effort been made to unify the level and structure of rates on which as large a proportion of the total traffic moves as rapidly or over so broad a territory."

The witness first set forth the rate-making principles by which, in his opinion, a mileage class rate scale should be determined: (1) it must be based on the two primary principles of rate-making, viz.: cost of service and value of service, but a mileage scale has a close affinity to the cost of service, because cost of transportation is related to the length of haul; (2) value of service considerations are usually taken care of in the classification of freight; (3) where value of service is, however, affected by competition, the situation should be met by competitive rates rather than attempt to vary the scale; (4) the scale should represent average conditions throughout the territory where it applies; (5) the level of the scale should protect the carriers' revenue within a reasonable degree; (6) the characteristic tapering form of distance scale is the result largely of ideas about the performance of costs at varying lengths of haul, other things being equal, and it is from this factor that it gets its reputation for fairness and equity, and the supposed correspondence to cost relationships accounts more than anything else for the steady trend toward distance scales which has been enforced by the Interstate Commerce Commission of the United States.

The witness, however, considered that errors are likely to creep into the use of too close a reliance upon costs, because it is impossible in railway matters to find the cost of performing an individual haul, i.e. at any specified mileage; nevertheless he indicated that there are widely accepted views as to the behaviour of costs, which have provided the customary shape of distance scales of rates; (7) railway costs are twofold: (*a*) the terminal costs at origin

and destination and (*b*) the line-haul costs. The addition of fixed terminal costs to line-haul costs for increasing distances causes the characteristic "tapering effect" of mileage scales; (8) in laying a foundation, however, for criticism of the lack of additional taper in the Board's scale over 100 miles, the witness was critical of the tendency towards straight-line scales in the United States, as to which he said:—

> "The Edwards (Mr. Edwards was formerly head of the Bureau of Statistics and Economics of the I.C.C.) cost scales which are coming into wider use (in the U.S.A.) suggest a virtually straight-line progression once the terminal element is covered. This is the result, however, of highly simplifying assumptions which present the line-haul costs as though they were the same per ton-mile regardless of length of haul. Hence, they must be used with great caution and with the expectation that a scale which departs from the straight-line form is more likely to represent the true picture of cost relations."

Having set forth the principle, as shown above, that a scale should represent "average" conditions and that particular competitive conditions should be met by competitive rates, the witness then faced the dilemma that all administrative bodies have to meet in making freight rates when he said:—

> "While I believe a scale of rates designed to accomplish the purposes of this proceeding should reflect as far as possible the cost of service at various distances, it must be tempered by competitive and value of service considerations. Undoubtedly it must be influenced in the shorter distances by the fact that motor carrier competition, both actual and potential, is most pressing in those shorter distances. The rates of motor carriers, or the cost where the trucking is private, fix the value of railroad service for hauls upon which rail-motor competition is active."

(It may be said that the Board, in constructing its scale, resolved these difficulties by omitting competitive rates, as it was instructed to do by Section 336 of the Act, and by adopting an average of the present normal rates and revenue, except where the present rates are inflated by particular processes of rate-making, as in the territory west of Winnipeg, in which case the progression of the scale was reduced.)

The witness concluded his analysis of methods of rate-making by the statement that:

> "In cementing an economy strung out over a very long and narrow belt, as is that of Canada, it is of unusual importance that the long-haul rates be held as low as possible within the latitude that the transportation conditions afford. This argues, certainly, for giving a good deal of consideration to the value of service considerations as they may affect the longer hauls."

The witness then proceeded to make detailed comments upon the four scales as follows:

Board's Interim Scale.—The scale of rates in Appendix A of the Board's Judgment of December 12, 1952, represents an endeavour to devise a scale that is equalized on a weighted basis. The Board's staff have made an earnest effort to reflect this desire for a weighted average scale and appear to have employed the method best designed to secure the desired end. The data suggest a straight-line relationship beginning at an early mileage block and do not show a tapering of the sort which most other scales have included up to a considerably greater distance. The result is the effect of differing volumes of traffic moving at various average hauls under the several present scales; thus the large volume of short-haul traffic moving in the east under "Schedule

A" (the present "town tariff" rates) tends to pull down the short-haul rates. Between 600 and 1,200 miles the traffic is predominantly western, at the higher western scales. Beyond that distance it is largely East-West traffic. The traffic is so distributed in these categories that it produces, upon a weighted average basis, the straight-line relationship of the Board's scale (i.e. no reduction in the progression of the scale). The question arises whether the resulting scale is the best one to accomplish the purpose of the equalization legislation. If there be room for objection to the Board's scale in principle, it arises out of the relationship of long-haul to short-haul rates, which to a considerable degree reflects present relationships under the weighted average urged upon the Board. The plain difficulty is that over long groups of mileage blocks there is little averaging to be done: beyond 600 miles there is very little eastern traffic and beyond 1,100 miles virtually none; beyond 1,500 miles there is very little (local) western traffic. Under 1,200 miles there is almost no East-West traffic. As far as it can be accomplished in the light of general competitive conditions, a mileage scale ought closely to reflect probable cost relationships for hauls of varying distances; hence it should contain a taper over much greater distances than does the weighted average scale. If such benefit is to be accorded rates for the very long hauls, rates for short-haul business must necessarily be higher than the Board's scale . . . and since a uniform scale for use in Canada must extend to longer distances than elsewhere, taper might properly continue beyond the point where it is dropped in many scales used in the United States and Europe. Hence a modification of the Board's scale would seem (to the witness) to be desirable to secure the objectives to which uniformity is addressed.

Canadian Pacific Scale.—The Canadian Pacific scale departs more radically from the Board's scale than does the Canadian National scale. Up to 1,500 miles it closely resembles the Prairie Distributing Scale, although somewhat below it. As the scale is below the Board's up to 150 miles, it appears to take into account the force of motor competition on short hauls, but its rapid (upward) progression thereafter would make it vulnerable to overnight truck hauls (up to 400 miles). The application of this scale to traffic in the eastern territory would produce increases of too radical a nature to accord adequately with the spirit of an equalization proceeding. Between 100 and 1,000 miles the rate of progression appears to be excessive in the light of probable cost of service. On the other hand, the emphasis of the C.P.R. upon value of service affecting the longer hauls presents a scale well below existing rates on the longer mileages and also below the Board's scale. While the scale is in the direction of the modification of the Board's scale suggested by the witness, he believes the C.P.R. has gone too far, especially in holding so high a level of rates between 150 and 1,200 miles. The scale also departs considerably from the shape of most of the mileage scales developed in the United States, but, if the C.P.R. scale has a defect entitled to weight, that defect, in the opinion of the witness, seems to be the extent to which it increases the rates in eastern Canada. But the prospect that competition may in time force reductions (in that proposed scale) ought not to stand in the way of prescribing a reasonable basis in the first instance.

Canadian National Scale.—The Canadian National have constructed their scale by basing upon two points, a 42-cent minimum (prior to the 9 per cent and 7 per cent increases) and an average rate for the average Class 1 haul based on the 1949 waybill data. The 42-cent minimum is lower than any other proposal and is lower than the 58 cents for the first 5 miles of the I.C.C. scale in the United States. Beyond the minimum rate, the C.N.R. scale progresses very rapidly to beyond 2,000 miles, producing a straight-line relationship, with practically no taper over this range. The effect is to produce a very low basis

of rates for the short hauls while producing a comparatively high basis of rates between 800 and 2,000 miles. In the opinion of the witness, the major defect of this scale is its failure to provide a sufficiently high basis of rates up to 1,000 miles, and the unreasonably high basis of rates between 1,000 and 2,000 miles. Marked taper is then introduced at two points geyond this distance, which is difficult to justify in view of the scale below 2,000 miles.

Alberta Compromise Scale.—Because of the opposing characteristics of the Canadian Pacific scale and the Board's interim scale, and the intermediate position of the Canadian National scale, an averaging happens to produce a scale which approximates the customary shape of a distance scale, with the exception that taper continues at a modest rate in the very long distances. This scale, however, reflects to some degree the defects of the Board's scale and the Canadian National scale. Up to 100 miles it is a very low scale and lacks the rapid absorption of terminal expenses which characterizes most distance scales, yet it is not so low as the C.N.R. scale for this distance. The scale also is not satisfactory in the relationship of the progression below 500 miles and beyond that distance. The compromise scale, however, appears to have a degree of superiority over each of the other scales in respect of the relationships between long- and short-haul rates, and appears to afford a more reasonable transition toward uniformity upon a logical and fair basis than does a scale derived from a weighted average at present rates. The compromise scale has been tested against several of the practical problems that would be faced in its application. It appears to offer some fair prospect of coping with the competition of motor carriers of general commodities (although it may be vulnerable to specialized and private carriage, which could be met by competitive rates). It appears to provide rates that will more than cover out-of-pocket cost of carload traffic even upon the lowest rate (class) traffic. It appears to avoid undue change in key rates such as Montreal-Toronto, Toronto-Head of Lakes, Toronto-Winnipeg. *It takes a step in the direction of bringing long-haul rates in relation to short-haul rates that more nearly reflects probable cost of service without throwing aside a reasonable relationship with past rate relationships.*

The foregoing exposition of this witness' opinions upon the four scales, as we understand it, was largely based upon his assumption (as italicized above) that there were no unusual circumstances in Canadian railway freight-rate costs that would be a barrier to the "bringing of long-haul rates in relation to short-haul rates that more nearly reflects the probable cost of service".

The witness was understandably unaware of some of the peculiarities of the Canadian railway economy, the principal of which is that he did not know "the probable cost of service" and assumed that it continually tapered off as distance increases. As shown near the end of Section 7, the simple fact is that Canadian regional railway costs, on the average, are high at both ends of the country, but are lower in the middle; therefore a scale made on costs throughout, as suggested by the witness, would not taper off for the longer distances but would actually increase. Upon being questioned on this point by the Board, the witness readily agreed that, such being the case, his criticism of the Board's scale in respect of lack of tapering must perforce be modified.

The compromise scale did not, in fact, attain the main object of any compromise, i.e.: to provide a common ground upon which opposing interests could agree. The record shows that the majority opinion of those present at the final hearing favoured the Board's scale (subject of course to a revenue test), with the Canadian National scale as second choice.

10. Grouping of Rates

There are two main purposes in grouping stations or localities for rate-making purposes and by publishing specific rates between such groups; these purposes are:

(1) To enable the same rate to be applied from or to a natural group of shipping or receiving points, or to give points tributary to a large city or central point the same rates as the central point;

(2) For simplicity and speed in the use of specific rates between group points, rather than having to calculate all rates by mileages.

The mileage tariffs themselves are "grouped" into blocks, the most common of which are 5-mile, 10-mile, 25-mile and 50-mile blocks; therefore, even a mileage rate table is to some extent made upon a "group" basis.

Regional grouping.—In western Canada the mileage groupings of the maximum mileage class rates are as follows:

5 to 100 miles	—	5-mile blocks
101 to 500 miles	—	10-mile blocks
501 to 1,500 miles	—	25-mile blocks
Over 1,500 miles	—	50-mile blocks

The so-called "distributing" rates of western Canada follow the same groupings as the maximum mileage class rates; and the so-called "terminal" class rates also follow the maximum mileage groupings after 130 miles have been deducted from the distance of 420 miles and over.

In eastern Canada the maximum mileage class rates are grouped as follows:

Minimum — 15 miles		
16 to 75 miles	—	5-mile blocks
76 to 95 miles	—	10-mile blocks
96 to 110 miles	—	15-mile blocks
111 to 200 miles	—	10-mile blocks
201 to 300 miles	—	10 or 20-mile blocks
Over 300 miles	—	25-mile blocks

The "Schedule A" rates of eastern Canada, however, do not follow the mileage grouping of the maximum mileage class rates. Mileage grouping of the "Schedule A" rates is as follows:

Minimum — 15 miles		
20 to 30 miles	—	5-mile blocks
31 to 80 miles	—	10-mile blocks
81 to 140 miles	—	20-mile blocks
141 to 440 miles	—	30-mile blocks
Over 440 miles	—	40-mile blocks

As there is a relatively small amount of traffic carried at the maximum mileage class rates, the principal scales to be considered are the western "distributing" scale and the eastern "Schedule A" scale.

Complaints were heard during the regional hearings in western Canada with respect to the small groups which are characteristic of the western distributing scale, particularly up to 500 miles, which consist of 5- and 10-mile groups. On the contrary, in eastern Canada the "Schedule A" scale runs rapidly to groups of 20 and 30 miles for the shorter mileages, but over 440 miles continues in 40-mile groups throughout the scale.

These scales were originally made at a time when there was only horse-drawn transportation to and from stations, and the stations were in many cases only 5 or 10 miles apart to accommodate this type of economy. Not only was this the case with respect to the spacing of the stations themselves, but the

same principle was carried into the construction of the railways and branch lines. Extensive comment was made, for example, in the Western Rates Case (1914) upon the necessity for railway lines of not more than 10 or 20 miles apart.

All this is now changed by the advent of improved highway transportation. Many small stations which were only 5 miles from other stations have been abandoned or their freight agents removed.

For these reasons, and upon considering the additional evidence now available, it does not appear that such small mileage groups are now necessary. The difficulty however in extending the groups to include longer mileages is that since 1914 there have been eight substantial increases in the class rates, (with only three small reductions) and the class rates are now so high in cents per 100 lbs. that larger groups would result in large rate "jumps" between the groups in order to maintain the present revenue level of the rates. By comparison, in the interim scale published in Appendix A of the Board's Judgment of December 12, 1952, the difference is 7 cents between each 25-mile group for distances over 100 miles up to and including 2,600 miles.

If 25-mile groups were eliminated, and only the 50-mile groups retained, it is obvious that the difference between one group and the next would have to be 14 cents per 100 lbs. (This, it is true, would give the railways somewhat more revenue, because the intermediate lower-rated groups of 25 miles would be eliminated.)

If 100-mile groups were used, it is obvious that the scale would have to be made in 28 cent "jumps" for 100 miles for distances from 200 to 2,600 miles, and 24 cents beyond. (With the 9 per cent and 7 per cent increases, the figures of 28 cents and 24 cents would now be 33 cents and 28 cents respectively.)

While extension of grouping in this manner would result in combining many of the smaller groups into larger groups, and thereby place competitors within a 50 or 100-mile radius in the same groups, it would also result, from one group to the next, of an increment in rates greater in many cases than now exists, and it was for this reason that the interim scale was made in blocks of 25 miles.

A witness for the Canadian Industrial Traffic League, which represents a very large number of shippers throughout Canada, in cross-examination was asked whether he would have any objection to groups larger than 25 miles for the longer distances, provided the "jump" in rates from one group to the next is not excessive, and the witness stated he had no objection to larger groups under such conditions.

Upon due consideration, the Board came to the conclusion that from 100 to 1,500 miles it was not feasible to increase the size of the groups beyond the 25-mile groups specified in the interim scale, but that, with some "tapering" of the scale, it would be possible to prescribe 50-mile groups beyond 1,500 miles.

Group Rates between Eastern and Western Canada.—With respect to rates between eastern and western Canada, the stations in eastern Canada are divided into extensive groups; what are known as groups A and B together consist of a large group extending from Sault Ste. Marie, through Sudbury and Capreol, to Windsor, Ontario, thence through Toronto and Ottawa to Montreal, and then the grouping is applied to Quebec City and adjacent points, where the mileage from such points to Winnipeg and west thereof is approximately the same as from Montreal.

This grouping, however, is not applied at some intermediate points between Montreal and Quebec City, where the mileage is longer via Montreal or Quebec City.

All points within the area Sudbury-Capreol-Windsor-Montreal and Quebec City at present have the same rate to western Canada, commencing at Port Arthur and Armstrong, Ontario. This group has been in effect for many years and at the regional hearings, as heretofore stated, there was almost unanimous objection to the breaking up of this group on a 25-mile block basis. Shipping interests at the hearings at Windsor and London demanded parity with Toronto, but were not so much concerned with stations east of Toronto. On the contrary, at the hearings at Montreal and Ottawa, representatives of the Province of Quebec, the City of Montreal, the Montreal Board of Trade, the Chambre de Commerce de Montreal, and many other shippers' organizations contended that rates no higher than Toronto be prescribed between Montreal and points in western Canada.

Shippers who might be expected to benefit from the shorter mileage on the railway lines north of Montreal-Toronto-Windsor did not appear before the Board—and the Board can only assume that such shippers expected the application of the mileage scale to be made effective from and to their shipping points, such as Parry Sound, Sudbury, North Bay, Pembroke, Renfrew, Ottawa, and Orillia, Ontario, to name but a few points which would benefit from a mileage scale, and therefore considered it unnecessary to appear. The sole exception was the Algoma Steel Corporation, which made an appearance and filed a brief requesting not only the use of the mileage scale between Sault Ste. Marie and western Canada, but that it also be applied jointly for the shorter distances via routes at present open from Sault Ste. Marie via the Algoma Central & Hudson Bay Railway through Franz, then C.P.R. or via Oba, Ontario and C.N.R. to western Canada.

In western Canada, the groupings of the East-West tariffs follow the pattern of the western class rates referred to above, which, as stated, are in small 5 and 10-mile blocks up to 500 miles west of Port Arthur-Fort William and then in 25-mile groups from 501 to 1,500 miles, with 50-mile groups beyond that distance.

To sum up, the situation in these East-West tariffs is that in eastern Canada there is a single group extending from Sault Ste. Marie, Ontario to Quebec City (except some intermediate points between Montreal and Quebec City) a distance of approximately 800 miles, whereas in western Canada the groups run only in 5, 10, 25 and 50-mile blocks, (except that Prince Rupert as a competitive point is grouped with Vancouver.)

The Province of Alberta has complained in recent years about this situation, and it was this complaint of Alberta that persuaded the Royal Commission on Transportation to recommend that freight rates for long distances be made in 100 or 200-mile groups.

The railways supported the Ontario and Quebec contentions that the large eastern group should not be broken up into 25-mile blocks, but, if divided at all, should be made into much larger groups than 25 miles.

The Canadian National, on East-West traffic, suggested that the groups in the East be computed to Fort William in three blocks of 601-700 miles; 701-800 miles; and for distances over 800 miles (which would include Windsor, Toronto, Montreal and Quebec City) the rates would be based upon the Toronto mileage, which to Fort William is 812 miles. For distances less than 601 miles, the C.N.R. proposal was that rates be computed by actual mileage blocks.

The Canadian Pacific's suggestion for the eastern Canada group is that the southern part of the group, i.e.: from Montreal to Windsor via both of the main lines of the C.P.R. through Toronto and Peterborough, and also taking in territory as far north as Ottawa, Goderich, Owen Sound, Wingham and Teeswater, consisting of 27 principal shipping points, should constitute one

group and be averaged at a distance of 910 miles to Fort William. The Canadian Pacific also suggested two "buffer" groups from points north of this territory.

The two railways therefore are virtually in agreement as to the revision of the major part of groups A and B into groups having a minimum width of 100 miles and a maximum of 211 miles, and also in the suggestion that Montreal, Toronto and Windsor should be grouped together to meet the emphatic desire of the Ontario-Quebec shippers, the only difference being that the Canadian National suggested that a basic mileage of 812 miles from Toronto to Fort William be used for this group, whereas the Canadian Pacific suggests an average distance of 910 miles to Fort William.

Both railways agreed that the mileage rates should be applied through between eastern and western Canada, thus dispensing with the present method of making rates by means of basing arbitraries to Fort William, plus the local rates beyond. The elimination of the present method is in accord with the recommendation of the Royal Commission on Transportation.

In order to avoid confliction, however, between the through mileage scale between eastern and western Canada and "group" rates, the Canadian Pacific suggested that the mileage scale should not be published and that specific group rates be published (but based on through mileage) between eastern and western Canada, on the assumption that Section 336(4)(*g*) permits deviation from the requirements of Section 332. The Act, however, requires the publication of the mileage scale and permits in addition the publication of specific group rates.

In the Judgment of December 12, 1952, the Board has interpreted Section 332(*b*) as being applicable for the purpose of making group-to-group rates although the rates from individual stations in the groups, if based on average mileage of the group, might be slightly higher or lower than the actual mileage scale; but this decision cannot be interpreted to mean, as the C.P.R. suggests, that the distance for computing the specific group rates between Toronto and Fort William could be inflated to 910 miles, and thus produce on Class 100 of the Appendix "B" scale an excess of 36 cents per 100 lbs. over the mileage rate of 812 miles for the key point in the group. This excess, in the opinion of the Board, would be unreasonable.

The Board concluded that the present groups A and B should be maintained as far as possible, but that the rates should be computed in accordance with the Canadian National's suggestion of adopting Toronto as the key point and applying the distances between that point and western Canada at the mileage scale Appendix "B"; points north of Toronto to be computed on actual mileages.

11. Review of Appendix "B" Scale

In deciding upon the scale which should be adopted and which is to be known as Appendix "B" (in substitution for the Appendix "A" scale of uniform mileage class rates required by Order No. 80410 of December 12, 1952) consideration has been given inter alia to the four proposed rate scales, the minimum rates and the mileage blocks proposed by various interests, the gradation or "taper" of the scale, the 9% and 7% increases which have become effective since the Appendix "A" scale was promulgated, and the revenue deficiency which was said to exist in the Appendix "A" scale apart from the general increases of 9% and 7%.

The Canadian National calculated that the Board's scale would produce revenues which were too low by 9·2% on 1952 traffic compared with the current rates; the Canadian Pacific calculated that the Appendix "A" scale would be 8·2% too low.

Other calculations were made to the effect that the Canadian National proposed scale, if applied to Canadian Pacific traffic, would be 1·1% too low.

The Canadian National's own scale, it was noted, would result in a revenue deficiency of 3·2%, but it was conceded that any scale which came within 3 or 4% of the estimated revenue would be a reasonable approximation.

Both railways requested that the Board should not prescribe separate scales of rates for carloads and less-than-carloads, which were shown in the Appendix "A" scale for distances from 5 miles to 35 miles, inclusive. As previously stated, the Board considered that separate scales should be prescribed, or authorized the alternative that the lower local class carload switching rates in effect within stations and terminals in eastern Canada should also be applied on the same basis in western Canada. The Canadian Pacific accepted this alternative; the C.N.R. inferentially agreed to the alternative when it proposed a single scale for all distances, and the Province of Alberta did likewise by suggesting a scale to be applicable on both carloads and less-than-carloads. No objection was taken by any shipping interest to this alternative method of prescribing rates, and it was adopted by the Board.

It was considered however that the minimum of 60 cents per 100 lbs. suggested by the Canadian Pacific is too high for the mileages in the 20-mile block, and too low at 40 miles; the minimum of 49 cents for 20 miles in the Canadian National scale would preserve practically the rates (as of March 16, 1953) in both the western distributing scale and the eastern town tariff scale. Alberta suggested a minimum of 49 cents.

For a minimum of 20 miles the Appendix "B" scale was determined at 50 cents per 100 lbs.

So far as the mileage blocks between 20 and 100 miles are concerned, it should be pointed out that the blocks prescribed in Appendix "A" were given lengthy consideration, and were carefully designed by the Board to fit into the existing rate pattern so far as possible.

It should also be noted that the 25-mile blocks from 100 to 3250 miles were the subject of considerable discussion at the regional and final hearings. They were originally designed, as stated in the Board's Judgment of December 12, 1952, so that there should be no large increment or "step-up" in rates from one group to the next, the greatest difference in the original Appendix "A" scale being only 7 cents per 100 lbs. for each 25 miles, or a total of 28 cents per 100 lbs. per 100 miles. A number of shipping interests and some provinces would be satisfied with 25-mile blocks for regional application. On the other hand, there were parties who desired larger blocks, but in no case did such larger regional blocks exceed 100 miles, except in the case of the Canadian National, which suggested some blocks of 150 and 200 miles. In the compromise scale the Government of Alberta suggested 10-mile blocks from 20 to 100 miles; 20-mile blocks from 100 to 400 miles; 50-mile blocks from 400 to 1000 miles, and 100-mile blocks beyond. It later developed in argument that while such grouping would fit well into certain situations which the Province of Alberta desired to alleviate, on the other hand, as to other situations, the Province of Alberta had some misgivings about the adoption of 100-mile blocks over 1000 miles. For example, from Toronto to Edmonton the distance of 2001 miles would have to take a mileage block of 2100 miles, with its consequent step-up from one group to the next of 30 cents per 100 lbs. suggested in the Alberta compromise scale. This would result in a difference from Toronto to East Edmonton of 30 cents below Edmonton, or, stated conversely, Edmonton would be 30 cents per 100 lbs. higher than East Edmonton, which would be an undesirable situation.

Similarly, from Toronto to Winnipeg, the distance is 1208 miles, and on the Alberta compromise scale this would be increased to a mileage block of 1300 miles. For that reason the Province of Manitoba objected strenuously to any change in the 25-mile blocks originally prescribed by the Board.

As stated herein, the eastern Schedule "A" rates were made in blocks of 40 miles for the distances over 440 miles; the western distributing rates and the western maximum mileage scale are made in blocks of 50 miles over 1500 miles. Since it is the West that is principally interested in the long-distance mileages, the Board has adopted 50-mile groups beyond 1500 miles. This appears to be a reasonable solution of the grouping, considering that, for distances beyond 1500 miles on the Prairies, the towns and cities are considerable distances apart. However, the "step-up" in the rates for 50 miles must obviously be twice that for 25 miles, and should any later complaint be made of this step-up, it may be necessary for the Board to consider reversion to 25-mile groups throughout the entire scale from 100 miles upwards.

With the minimum fixed at 50 cents for 20 miles, the next step was to determine a reasonable rate for 100 miles, and grade the rates between 20 and 100 miles at a reasonable rate of progression. So far as the Canadian Pacific is concerned, it suggested a rate of $1.08 per 100 lbs. for 100 miles. The Canadian National suggested a rate of $1.09, which with 1·1% allowance for the deficiency in the scale previously referred to, makes a rate of $1.10. For this distance it would appear that $1.10 per 100 lbs. would be a reasonable rate.

The mileage blocks over 20 miles prescribed by the Board in Appendix "A" fit without change into a rate scale between 50 cents and $1.10 by an increment of 5 cents per 100 lbs. for each mileage block, i.e.: 5-mile blocks from 25 to 60 and 10-mile blocks from 60 to 100.

Consideration has been given as to whether the uniform rate of progression from 100 to 2600 miles in the Appendix "A" scale could be changed to conform with the suggestions, particularly from Alberta and British Columbia and the railways, for more tapering effect in the Board's scale, and the vigorous opposition of the Province of Manitoba against any such change in the scale. Having regard to the long hauls within Canada, it was concluded that some additional effect should be given by the Board to the principle of tapering, and in that respect the method of the Canadian National scale (with some modification to meet the objections of Manitoba) offered a more logical guide than either the C.P.R. or the Alberta scale.

As prescribed in the Board's interim scale, the increment in the rates for 100 to 2600 miles was 28 cents per 100 lbs. per 100 miles, which was divided into 25-mile groups at 7 cents each. This was the progression that inevitably came out of the rates made on the weighted basis. The increment of 28 cents per 100 miles has, with the subsequent 9% and 7% increases, become 32, 33, or 34 cents, depending upon the disposition of the decimal fractions.

The Canadian Pacific submitted that the Board's scale is 8·2% too low; therefore, using the average of 33 cents and increasing it by 8·2%, the resulting increment is 36 cents per 100 lbs. per 100 miles. It was considered that this figure should be graded, to provide a progression of 40 cents per 100 lbs. from 100 to 200 miles, 36 cents from 200 to 2000 miles, and 32 cents from 2000 to 2600 miles, at which point it should decline to 28 cents per 100 lbs. per 100 miles. This latter figure compares with 24 cents per 100 miles suggested by the Canadian Pacific for distances over 2,000 miles, and compares with 24 cents (including the increases) suggested in the Canadian National scale from 2000 to 3000 miles and 14 cents (including increases) suggested by the Canadian National for distances over 3000 miles. The latter figure was considered to be too low for the purposes of making class rates. For the lowest class, (27% of 100) such an increment would result in an allowance of only 4 cents per 100 lbs. for each additional 100 miles, which yields only 8/10ths of a cent per ton-mile for the additional distances over 3000 miles, and which, by any standard of earnings, is too low.

To sum up the foregoing, the revised scale was computed as follows:—

Distances, Miles Minimum — 20		Mileage Block 20 miles	Minimum per 100 lbs. .50¢ Rate per 100 lbs. per 100 miles
Over	20 to 60	5 miles	$1.00
"	60 to 100	10 "	.50¢
"	100 to 200	25 "	.40¢
"	200 to 1,500....	25 "	.36¢
"	1,500 to 2,000....	50 "	.36¢
"	2,000 to 2,600....	50 "	.32¢
"	2,600 to 3,300....	50 "	.28¢

The rates in Appendix "B" are to be applied in accordance with the mileage blocks above specified, except in the case of the large eastern territory known as groups A and B. In the light of the evidence submitted by the railways and numerous shippers, and concurred in by the representatives of several of the provinces, which evidence is practically unanimous, the Board concluded that it would cause wide and unreasonable disruption in trade and market patterns entirely to abolish groups A and B, and decided therefore that it is not reasonably possible to apply the actual mileage blocks above specified to such groups for the making of rates between eastern and western Canada, and that a modification was necessary, but combining the modified blocks with the application of the mileage scale, as outlined in Section 10.

For similar reasons it was not considered reasonably possible to apply the full scale mileage between Victoria, B.C., and the mainland. It was taken into consideration that the lower cost of water transportation between Victoria and the mainland warranted some relief from the full mileage scale. Between Victoria, B.C., and points on the mainland, therefore, the Board prescribed that the distance used by water transportation should be computed at one-half of the actual mileage.

The following statement, compiled from the waybill studies for 1952 and 1953, shows that the rates prescribed in Appendix "B" maintain a fair approximation to the average weighted rates for all Canada west of Maritime territory for those two years; except on the international traffic moving through the western border gateways:

Class Rate Equalization

Comparison of Present Average Rates with
Prescribed Rates under Appendix "B" Scale
Average Rates increased to current level, February 28, 1955

1952 *

Class	Weight (cwt.)	Revenue $	Avge. Haul (Miles)	Rates in cents per 100 lbs. Avg. Rate	App. "B"
1	27,986	132,399	1,058	473	465
2	18,090	103,304	1,604	571	571
3	21,094	57,771	832	274	269
4	76,932	157,346	845	205	211
5	285,260	430,742	668	151	144
6	91,988	147,728	852	161	157
7	24,838	34,062	1,031	137	150
8	11,720	11,421	639	97	94
10	39,140	23,215	353	59	58

1953 *

Class	Weight (cwt.)	Revenue $	Avge. Haul (Miles)	Rates in cents per 100 lbs. Avg. Rate	App. "B"
1	7,638	16,649	343	218	204
2	4,518	15,246	889	337	342
3	21,900	81,892	1,356	374	401
4	78,454	207,834	1,156	265	276
5	210,238	368,217	834	175	173
6	75,840	123,892	933	163	168
7	23,114	32,155	1,014	139	148
8	4,990	5,647	843	113	115
10	29,506	15,294	321	52	53

* Domestic carload traffic only, excluding all traffic originating or terminating in Maritime Territory.

12. Effect of Proposed and Prescribed Scales

In view of the fact (a) that the railways contended that the Board's interim scale was too low to produce the necessary revenue, and (b) that the present rates from eastern to western Canada actually increase per ton-mile west of Winnipeg, compared with the rates to Winnipeg, it appears inconsistent for both railways to suggest that the progression of their proposed rate scales should produce rates that would have been below the Board's scale for the longer distances.

The Board, in order to remove the inflation in the rates above referred to in "(b)", in the interim scale projected the increment of 28 cents per 100 lbs. per 100 miles beyond the Montreal-Winnipeg distance of 1,354 miles, up to 2,600 miles, and 24 cents beyond, but the railways went much further and turned their scales sharply downwards at the longer distances.

The object of the railways was stated to be "rates that will move the traffic" for the longer distances. However, their scales show that the quid pro quo for this, especially in the case of the Canadian Pacific, was a drastic increase in eastern Canada in the middle mileages of the scale.

This treatment of the rate scale, while undoubtedly "enabling the traffic to move" at relatively low rates for long distances, would tend to discourage the movement by rail for the shorter distances.

The recital of the position adopted by various shipping interests and some of the provinces towards the Board's interim scale shows that, despite the statement made by the Board from time to time during the hearings that it would have to look at equalization from a broad, national point of view, in conformity with the policy laid down by Parliament, the tendency generally of the parties appearing in this case was to deal with the matter with the object of preserving their own particular position or privileges in the present rate structure.

This was, perhaps, only to be expected, but it leaves the Board in the position where, in order to determine a scale based upon broad national freight rates policy, it must subordinate individual positions to the interests of the country as a whole, while at the same time disturbing trade and market patterns only to the smallest extent necessary.

The Board would not, in fact, be following the conclusions of the Royal Commission, nor the national freight rates policy, if it adopted a rate scale which would create a violent disruption of trade and commerce, especially between important trading areas of the country. On this point the Royal Commission said:

"The objective of equalization is something which can only be attained after considerable study by the Board and by the railways. Undoubtedly many serious problems are involved, for example the effect that the proposals may have on railway revenues, on established industries and on trade and market patterns. All these things are of the utmost importance." (Page 125 of Report).

One great trading area is the highly industrialized territory lying along the St. Lawrence Valley and Great Lakes as far west as Windsor and Sault Ste. Marie. The two major points in this area are Montreal and Toronto. Another great trading area is between Montreal, Toronto and Winnipeg. Between Ontario and the Maritimes is another great trading area.

Montreal is the pivotal point for all rates between points west of Montreal and the entire Maritime territory, which extends east as far as St. John's, Newfoundland.

Between Montreal, Toronto and Port Arthur-Fort William is another important trading area.

All of the scales submitted to the Board have some considerable merit, but they also have weaknesses that would materially disturb trade and market patterns of these trading areas.

The disruption which would have been caused by substantial increases in rates by some of the three additional proposed rate scales in the principal trading areas above referred to, can be seen from the following examples:

MONTREAL-TORONTO (334 MILES)

Class rates in cents per 100 lbs.

Old Class	1	2	3	4	5	6	7	8	10
New Class	100	85	70	55	45	40	*32½	30	†27½
Rates prior to Nov. 15, 1953..	164	142	124	105	81	74	64	68	57
10% increase, Nov. 15, 1953..	180	156	136	116	89	81	70	75	63
C.N.R. Scale "A".....	203	173	142	112	91	81	71	61	56
Additional increase	23	17	6		2	..	1		
Reduction				4		..		14	7
C.P.R. Scale	238	202	167	131	107	95	77	71	65
Additional increase	58	46	31	15	18	14	7	..	2
Reduction								4	
Compromise Scale	212	180	149	116	96	85	69	64	58
Additional increase	32	24	13	..	7	4			
Reduction				..			1	11	5
Final B.T.C. Scale.....	204	173	143	112	92	82	67	61	55

TORONTO-FORT WILLIAM (812 MILES)

Present Rates	394	319	260	187	157	131	131	129	129
C.N.R. Scale "A" (850 Miles)	385	327	270	212	173	154	135	116	106
Increase		8	10	25	16	23	4		
Reduction	9							13	23
C.P.R. Scale (910 Miles)....	451	383	316	248	203	180	147	135	124
Increase	57	64	56	61	46	49	16	6	
Reduction									5
Compromise Scale..... (850 Miles)	402	342	282	221	181	161	131	120	110
Increase	8	23	22	34	24	30	..		
Reduction							..	9	19
Final B.T.C. Scale.....	375	319	263	206	169	150	124	113	101

TORONTO-WINNIPEG (1208 MILES)

Present Rates	530	441	352	273	226	199	158	158	144
C.N.R. Scale "A"..... (1300 Miles)	544	462	381	299	245	218	190	163	150
Increase	14	21	29	26	19	19	32	5	6
C.P.R. Scale..... (1330 Miles)	576	490	403	317	259	230	187	173	158
Increase	46	49	51	44	33	31	29	15	14
Compromise Scale (1300 Miles)	558	474	390	306	251	223	181	167	154
Increase	28	33	38	33	25	24	23	9	10
Final B.T.C. Scale.....	519	441	363	285	234	208	171	156	140

* For C.N.R. Scale "A", the 7th Class rate was calculated at 35% of Class 100; changed to 33% in the final B.T.C. Scale.

† Changed to 27% in the final B.T.C. Scale.

Of the additional scales submitted, the Canadian National proposed scale would cause the least disturbance, but it was made to some extent on a theory that caused unnecessarily high rates for the medium distances (such as 850 miles, which is the block distance from Toronto to Fort William) and unnecessarily low rates in the longer distances (such as 2,700 miles, the block distance from Toronto to Vancouver).

The compromise scale suggested by the Provinces of Alberta and British Columbia is what its name suggests; it is neither a weighted scale nor a scale made upon any particular principle of rate-making. Its principal virtue was that it sought to offer a common ground for discussion. Its principal weakness, as previously stated, lies in the respect that (while seeking the supposed moderation of compromise) it would, in fact, perpetuate, in the ratio of two to one, the defects in the two railway scales versus the single scale of the Board.

As pointed out in the former Judgment of December 12, 1952, the Board and its adviser spent much time investigating many possible scales, and reached the conclusion that only a fully weighted average scale as recommended by the majority opinion of the round-table conferences of March 18-20, 1952, and as developed from the Board's own statistics in the waybill studies of 1949 and 1951, would be suitable for the purpose of equalizing the class rates throughout Canada.

However, the Board has necessarily given consideration to all the evidence and the subsequent scales submitted and has had to ascertain if a better scale could be devised by the Board as a result thereof by considering the best features that the various scales have to offer. The additional "taper" included in Scale "B" is one of the results.

In order to compare the various scales at the same distances, a table has been compiled from the material submitted to the Board and is included at the conclusion of this report. For brevity and easy comparison, the block mileages shown are those of the Appendix "A" scale, but it should be understood that present rates, and the proposed rates of the railway scales, are lower at some of the distances intervening between the blocks shown in the table.

13. EFFECT OF PERCENTAGE INCREASES ON CLASS-RATE TRAFFIC

Due to increases in wages and other costs, the railways had applied for a general increase of 9 per cent even before the interim uniform class-rate scale

was published by the Board on December 12, 1952, and the Board under the circumstances was constrained to allow this increase, including class rates, effective on January 1, 1953.

Less than a month later, the railways on January 20, 1953, for the same reasons, felt compelled to apply for a further general increase of 7 per cent, including class rates, which was granted and became effective on March 16, 1953.

Thus, the cumulative increase since the interim scale was promulgated is 16.63 per cent. (This increase is separate and apart from the revenue deficiency in the interim scale itself, which is dealt with elsewhere herein.) Prior to the interim scale, class rates had also been increased between 1948 and 1952 by increases of 21 per cent, 20 per cent and 17 per cent.

The general percentage increases since 1951 appear to have had an unfortunate effect upon the volume of class-rated traffic, which, of course, is the highest-rated traffic carried by the railways.

The results of the waybill analysis instituted by the Board are now available for the years 1949, 1951, 1952 and 1953. (The year 1950 was omitted, partly on account of the enormous effort involved in the first waybill analysis of 1949, and partly because of unsettled labour conditions which resulted in the railway strike in 1950 and which distorted the traffic statistics for that year.)

A synopsis of the types of traffic carried by the railways, as revealed by the four-day sampling for the four years involved, is shown in Statement "A" as follows:

STATEMENT "A"

Carload Traffic—trend of volume, as shown by Waybill Analysis (4-day sample) for the years 1949, 1951, 1952 and 1953

TONS

* *Type of Traffic*	*1949*	*1951*	*1952*	*1953*
At Special Class Rates				
1st	1,851	2,435	1,865	1,068
2nd	1,184	1,475	1,186	390
3rd	1,295	1,336	1,328	1,044
4th	4,006	4,430	4,087	3,477
5th	24,799	20,657	17,470	12,292
6th	4,994	6,249	5,545	4,363
7th	2,026	2,431	1,590	1,510
8th	1,144	1,559	823	519
10th	3,672	3,278	2,328	1,818
	44,971	43,850	36,222	26,481
Commodity Rates				
Special	754,727	740,150	602,872	492,325
Statutory	(1)	160,562	200,365	224,835
Competitive	101,216	142,320	114,054	138,593
Agreed Charges	36,860	44,137	49,805	55,980
Multiple-rated traffic	5,119	16,180	10,960	7,841
Mixed carloads	7,914	4,586	3,122	6,220

* Standard class rate traffic and 9th class, and traffic under special rate notices omitted, on account of small volume.

(1) Included in Special Rates.

Dealing first with class-rated traffic, it is shown that first, second, third and fourth class traffic increased substantially in 1951 over 1949, but in 1952 the same classes had declined to almost exactly the same volume as in 1949. In 1953 the first class also declined materially in tonnage, partly due to the transfer of autos into commodity rates. Third class traffic also declined as a whole, but it will be noted from Section 11 that it was carried longer distances, and did not decline in the territory west of the Maritimes. Fourth class traffic also declined as a whole in 1953 but, according to Section 11, actually increased in the territory west of the Maritimes, and was carried greater distances.

The most important change, however, in the class-rated traffic is in the 5th class, which is the principal carload class, including as it does from 40 to 50 per cent of all carload class-rate traffic. For the four test days, this traffic declined from over 24,000 tons in 1949 to less than 21,000 tons in 1951, declined again to 17,000-odd tons in 1952, and declined further to 12,000-odd tons in 1953.

Sixth-class traffic increased materially from 1949 to 1951 but fell off to some extent in 1952, and in 1953 declined below the 1949 level.

Seventh-class traffic increased in 1951 but declined below the 1949 figure in 1952, and the same situation occurred in 1953.

Eighth-class traffic increased in 1951, but there was a drastic decline in 1952 and 1953.

Tenth-class traffic consistently declined from 1949 through to 1953, and the latter is about one-half of the 1949 traffic in both classes.

The 21% increase in rates became effective April 8, 1948, and a further 20% increase was made on June 16, 1950. To the end of 1951, it appears from the waybill studies that these percentage increases had no great effect on the total tonnage of class-rate traffic moved over the railways so far as can be ascertained, because the statistics indicate that, on the four days' sample, class-rate traffic (with the exception of 5th and 10th classes) increased materially in volume from 1949 to 1951.

The next rate increase of 17% took effect on February 11, 1952, and it is significant that by the end of 1952 the total tonnage of the four days' sample had fallen materially, as indicated above, and has further declined in 1953. As the production of commodities in Canada did not decrease, but increased, up to the end of 1952, according to government statistics, it is apparent that the cumulative effect of the 21%, 20% and 17% increases had a substantially depressing effect on the volume of railway class-rate traffic in 1952 and 1953.

With the decline in the volume of class-rated traffic, it might be expected that some of the traffic would be picked up in the commodity-rated traffic, or in the competitive-rated traffic, conforming with efforts of the railways to retain former class traffic at lower commodity rates or competitive rates. It appears, however, that the quantity of traffic carried at special (normal) commodity rates has materially decreased, but on the other hand there is an overall increase of about 38% in competitive traffic between 1949 and 1953.

Traffic carried at Agreed Charges also has steadily increased in tonnage, indicating the desirability of this type of railway rates to the shipper.

While it is true that the volume of class-rate traffic is small in tonnage, it has heretofore produced a substantial portion of the railways' freight revenue.

The total revenue from class rates shown by the Canadian Pacific for 1952, adjusted to the present rate level, was $63,438,149, and this appears to cover all the Canadian class-rate traffic of the Canadian Pacific, including international traffic in western Canada, carried at local class rates to and from the boundary.

Canadian National revenue from class rates, carloads only, for 1952, without the 9% and 7% increases of 1953, as shown by evidence in this case, was stated as $40,309,889. Advancing this by 9% and 7%, the total on the current rate level would now be $47,013,413. Two omissions from this total, however, are the less-than-carload traffic for all regions and the carload traffic of the Maritime region. The 1949 waybill studies of both carload and less-than-carload class-rate traffic showed that the revenue on less-than-carload traffic relatively was about 50% of the carload traffic, but this has now declined to about 25%, and adding this percentage to the Canadian National's carload traffic, the total is $58,767,000. This still omits the C.N.R. Maritime traffic, because that is excluded from the study.

Added to the Canadian Pacific's revenue from the class-rate traffic, the total for 1952 was over $122 millions for the two principal railways, apart from the omissions noted above for the C.N.R.

There is no doubt that this revenue has declined in 1953 and 1954, due to the reduction in total tonnage of class-rate traffic, but it is known that some portion of this decline has been due to class-rate traffic being transferred into the lower commodity-rated or competitive-rated categories, especially the latter.

It is confirmed by the statistics quoted that there has been a substantial increase in competitive-rated traffic, and agreed charge traffic, which seems to indicate that a revolution in the making of freight rates is occurring. It appears abundantly evident that it is no longer possible to maintain a railway rate structure based on the principle of monopoly, because the shipper of high-valued goods, such as class traffic, can now provide his own transportation, or hire someone else to provide it, without using the railway at all, and therefore avoid paying the charges on remunerative traffic which the railway needs to offset the low rates on raw materials and other low-valued articles.

The decline in volume of class-rated traffic, as shown by the foregoing statistics, points to the desirability of—

(1) not increasing the class rates for the relatively short hauls any more than is absolutely necessary to achieve equalization; and

(2) not reducing, any more than is necessary to remove irregularities, the rates on long-haul traffic, which the railways are not in so much danger of losing.

The course suggested by the railways in their proposed rate scales would appear destined to bring about the opposite result.

For the present part of the equalization case, i.e.: class rates, the Board is of the opinion that at this time it should proceed upon the principles stated in paragraphs (1) and (2), and reserve for consideration under the provisions of P.C. 1487 any lower scale for class traffic if the equalized scale results, in practice, in further reducing the total volume of such traffic, so that such traffic does not "freely move". The Board cannot prescribe competitive rates, but it must have regard for the level of rates on high-rated traffic to determine whether or not the level is intrinsically too high for the value and cost of the service rendered to the public.

In the meantime, the railways will, no doubt, continue to exercise their discretion to change rates to meet new conditions. They have already given evidence of this. Since the general percentage increases were put into effect the railways have reduced some class-rated articles to a lower class or commodity basis, or by agreed charges, where it was evident that the increased class rates were too high to move the traffic; for example, in a considerable section of the country automobiles in carloads have been reduced from first to the equivalent of second class; butter in carloads has been reduced from 3rd to 4th class; canned goods in large carloads have been reduced from

5th to 6th class, and the latter rating is now included in the new freight classification; ale and beer have been reduced from 5th class to commodity rates in some cases approximately 10th class; traffic higher than 3rd class has been reduced to a common level of 3rd class in mixed carloads, and so forth.

On the other hand, the railways requested the Board to permit a substantial increase in the low rates on grain carried locally in western Canada for domestic consumption, part of which increase was granted as a step towards equalization of grain rates.

14. Subsequent Submissions Respecting Equalization

These Notes and Reasons for Judgment were deferred until now and meanwhile we have continued to receive submissions and queries in respect of equalization of class rates, including the following:—

(1) The method of computation or application of the mileage between Victoria, B.C., and the mainland.

(2) Whether Calgary should be grouped with Edmonton in the application of the scale between eastern Canada and these two points, and between Calgary, Edmonton and Vancouver.

(3) The question as to whether or not the all-rail rates as determined by the scale, so far as Winnipeg is concerned, reflect the geographical location of that point in relation to water transportation between eastern Canada and the head of the lakes. (See also Item 4.)

(4) Whether the differentials via rail-water-rail or water-rail are proper, it being contended on the one hand by the railways and the steamship companies that the differentials on the classes below Class 100 are too great, and, on the contrary, the query from Manitoba contending that the differentials are too low. (See also Section 15.)

(5) The extension of the so-called "Bridge Subsidy" (which now applies on shipments via the territory north of Lake Superior) to shipments between Churchill, Man., and prairie territory.

(6) Whether or not the railways have properly interpreted the Board's Judgment with respect to rates to and from the Maritime Provinces under the equalization scheme.

The Board believes that such objections should not result in further postponing the effective date of Appendix "B", and in fact none of the recent queries have suggested that such postponement be made.

15. Differential Rates Via Rail-Water-Rail and Water-Rail Routes

One of the objections that the Board has received is in respect of the following passage which appears on page 12 of our Judgment dated December 12, 1952, under the heading "Differentials":

> "Customary differentials which are added to or deducted from 'all rail class-rates' for the purpose of making rates via water-rail, rail-water or all-water carriers subject to our jurisdiction, may be applied to the Class 100 rates specified in Appendix A; differentials for the lower, and multiple, classes are to be scaled in accordance with the percentages herein specified."

The railways and affected steamship companies objected to that passage and requested the Board to reconsider it on the ground that the scaling of the differentials for classes lower than First Class (Class 100) upon the basis of the specified percentages would not reflect the difference in the value of service between railway transportation and water transportation, and they submitted an alternative scale of differentials which they stated was calculated

upon the basis of this difference in the value of service. Subsequently, by a formal application dated November 26, 1954, they requested the Board to rescind the passage in question and in the result leave the carriers free to establish the differentials that they had proposed. They also questioned the Board's jurisdiction.

The Province of Manitoba and the Winnipeg Chamber of Commerce were also dissatisfied with the differentials indicated in the Judgment but for reasons other than those of the carriers. They also opposed the alternative scale of differentials proposed by the carriers.

The Board has not been able to resolve the different viewpoints of the parties concerning differentials prior to the opening of navigation on the Great Lakes in March, but this impending opening of navigation makes it urgent that action be taken to permit differentials and resulting rates to be established in the immediate future.

Under all the circumstances we are of the opinion that the preferable course is to rescind the passage in question in our December 12, 1952, Judgment and permit the carriers to establish the differentials that they have proposed, but the resulting rates will of course be subject to complaint and hearing thereon. In view of the shortness of time, tariffs giving effect to such rates may be published and filed on not less than three days' notice.

We therefore modify our December 12, 1952, Judgment by rescinding the heading "Differentials" and the passage in question on page 12, and where our Judgment dated March 1, 1954, is mentioned in our Order No. 83242 dated March 1, 1954, it shall be construed to include these Notes and Reasons for Judgment.

16. Conclusion

By the use of a railway mileage table and the application of the new freight classification, the simple scale of Appendix "B" provides a rate for each railway on any article, for any distance in Canada west of the Maritimes, and at the same rate for the same distance in any part of that territory, (except where rates are grouped at average or fixed mileages).

This evolution in Canadian freight rates must of course be tested in the light of experience. We are entering an uncharted field in the equalization of rates on all normal class-rated traffic in all parts of Canada west of the Maritime territory. While the Board has endeavoured to exercise due care to prescribe a scale that has, so far, received relatively little criticism since it was promulgated nearly a year ago after extensive hearings throughout the country, the scale can hardly be expected to have no defects.

Such criticism as has been received in the meantime, and which has not been resolved, as well as any defects not yet apparent, might, we think, be considered collectively after Appendix "B" has been in effect for a sufficient period to test its merits. Consequently, the Board will closely follow for the ensuing year the results of the new rates through its waybill studies and make them available to the interested parties.

JOHN D. KEARNEY,
Chief Commissioner.

I concur:

A. Sylvestre
F. M. MacPherson
H. B. Chase
O. A. Matthews

Ottawa, February 28, 1955.

COMPARISON OF PROPOSED AND FINAL CLASS RATES FOR FIRST CLASS OR CLASS 100 FREIGHT TRAFFIC

(1)	(2)					(3)	
Distance, Miles	Proposed C.N.R. Basic Scale	Proposed C.P.R. Scale	Proposed Alberta Scale	B.T.C. Interim Scale Appendix "A"	B.T.C. Scale Plus 9% and 7% Increases	B.T.C. Scale with Increases plus 8·2%	Final B.T.C. Scale Appendix "B"
5.....	49	60	49	*25	*29	31	50
10.....	49	60	49	*30	*35	38	50
15.....	49	60	49	*35	*41	44	50
20.....	49	60	49	*40	*47	51	50
25.....	57	60	60	*45	*52	56	55
30.....	65	60	60	*50	*59	64	60
35.....	75	60	70	*55	*64	69	65
40.....	75	60	70	60	70	76	70
45.....	80	64	80	65	76	82	75
50.....	80	68	80	70	81	88	80
55.....	87	72	89	75	88	95	85
60.....	87	76	89	80	93	101	90
70.....	92	84	97	85	100	108	95
80.....	98	92	103	90	105	112	100
90.....	104	100	109	95	111	120	105
100.....	109	108	114	100	117	127	110
125.....	119	126	132	107	125	135	120
150.....	128	138	140	114	133	144	130
175.....	138	156	148	121	141	153	140
200.....	147	168	156	128	150	162	150
225.....	156	183	172	135	157	170	159
250.....	166	193	180	142	166	180	168
275.....	175	208	188	149	173	187	177
300.....	184	218	196	156	182	197	186
325.....	194	228	212	163	190	206	195
350.....	203	238	220	170	198	214	204
375.....	212	248	228	177	207	224	213
400.....	221	258	235	184	215	233	222
425.....	231	268	255	191	223	241	231
450.....	241	278	255	198	231	250	240
475.....	249	288	275	205	239	259	249
500.....	259	298	275	212	247	267	258
525.....	269	307	294	219	256	277	267
550.....	277	316	294	226	263	285	276
575.....	287	325	312	233	272	294	285
600.....	296	334	312	240	280	303	294
625.....	306	343	331	247	288	312	303
650.....	315	352	331	254	296	320	312
675.....	324	361	349	261	304	329	321

* Subject to minimum of 60 cents per 100 lbs. on less-than-carload traffic prior to 9% and 7% increases, and 70 cents thereafter.

COMPARISON OF PROPOSED AND FINAL CLASS RATES FOR FIRST CLASS OR CLASS 100 FREIGHT TRAFFIC

(1)	(2)					(3)	
Distance, Miles	Proposed C.N.R. Basic Scale	Proposed C.P.R. Scale	Proposed Alberta Scale	B.T.C. Interim Scale Appendix "A"	B.T.C. Scale Plus 9% and 7% Increases	B.T.C. Scale with Increases plus 8·2%	Final B.T.C. Scale Appendix "B"
700.....	334	370	349	268	312	338	330
725.....	342	379	366	275	321	347	339
750.....	352	388	366	282	328	355	348
775.....	362	397	384	289	337	365	357
800.....	371	406	384	296	346	374	366
825.....	381	415	402	303	353	382	375
850.....	389	424	402	310	362	392	384
875.....	399	433	420	317	370	400	393
900.....	409	442	420	324	378	409	402
925.....	417	451	437	331	386	418	411
950.....	427	460	437	338	394	426	420
975.....	437	469	455	345	402	435	429
1000.....	445	478	455	352	411	445	438
1025.....	455	485	490	359	418	452	447
1050.....	464	492	490	366	427	462	456
1075.....	474	499	490	373	435	471	465
1100.....	483	506	490	380	443	479	474
1125.....	492	513	524	387	452	489	483
1150.....	502	520	524	394	459	497	492
1175.....	510	527	524	401	468	506	501
1200.....	520	534	524	408	476	515	510
1225.....	530	541	558	415	484	524	519
1250.....	539	548	558	422	492	532	528
1275.....	548	555	558	429	501	542	537
1300.....	557	562	558	436	508	550	546
1325.....	567	569	590	443	517	559	555
1350.....	576	576	590	450	525	568	564
1375.....	585	583	590	457	533	577	573
1400.....	595	590	590	464	541	585	582
1425.....	605	597	623	471	549	594	591
1450.....	613	604	623	478	557	603	600
1475.....	623	611	623	485	566	612	609
1500.....	632	618	623	492	574	621	618
1525.....	642	625	654	499	582	630	636
1550.....	651	632	654	506	591	639	636
1575.....	660	639	654	513	598	647	654
1600.....	670	646	654	520	607	657	654
1625.....	678	653	686	527	614	664	672
1650.....	688	660	686	534	623	674	672
1675.....	698	667	686	541	631	683	690

COMPARISON OF PROPOSED AND FINAL CLASS RATES FOR FIRST CLASS OR CLASS 100 FREIGHT TRAFFIC

(1)	(2)					(3)	
Distance, Miles	Proposed C.N.R. Basic Scale	Proposed C.P.R. Scale	Proposed Alberta Scale	B.T.C. Interim Scale Appendix "A"	B.T.C. Scale Plus 9% and 7% Increases	B.T.C. Scale with Increases plus 8·2%	Final B.T.C. Scale Appendix "B"
1700.....	707	674	686	548	639	691	690
1725.....	715	681	716	555	647	700	708
1750.....	723	688	716	562	656	710	708
1775.....	731	695	716	569	663	717	726
1800.....	739	702	716	576	672	727	726
1825.....	748	709	747	583	679	735	744
1850.....	755	716	747	590	688	744	744
1875.....	764	723	747	597	697	754	762
1900.....	773	730	747	604	704	762	762
1925.....	780	737	776	611	713	771	780
1950.....	789	744	776	618	721	780	780
1975.....	796	751	776	625	729	789	798
2000.....	805	758	776	632	737	797	798
2025.....	811	764	806	639	746	807	814
2050.....	816	770	806	646	753	815	814
2075.....	822	776	806	653	762	824	830
2100.....	828	782	806	660	769	832	830
2125.....	834	788	834	667	778	842	846
2150.....	840	794	834	674	786	850	846
2175.....	845	800	834	681	794	859	862
2200.....	852	806	834	688	803	869	862
2225.....	857	812	863	695	811	878	878
2250.....	863	818	863	702	819	886	878
2275.....	869	824	863	709	827	895	894
2300.....	875	830	863	716	835	903	894
2325.....	881	836	890	723	843	912	910
2350.....	886	842	890	730	852	922	910
2375.....	892	848	890	737	859	929	926
2400.....	898	854	890	744	868	939	926
2425.....	904	860	918	751	876	948	942
2450.....	910	866	918	758	884	956	942
2475.....	916	872	918	765	892	965	958
2500.....	921	878	918	772	900	974	958
2525.....	928	884	945	779	908	982	974
2550.....	933	890	945	786	917	992	974
2575.....	938	896	945	793	924	1000	990
2600.....	945	902	945	800	933	1010	990
2625.....	950	908	971	806	941	1018	1004
2650.....	957	914	971	812	947	1025	1004
2675.....	962	920	971	818	954	1032	1018

COMPARISON OF PROPOSED AND FINAL CLASS RATES FOR FIRST CLASS OR CLASS 100 FREIGHT TRAFFIC

(1)	(2)					(3)	
Distance, Miles	Proposed C.N.R. Basic Scale	Proposed C.P.R. Scale	Proposed Alberta Scale	B.T.C. Interim Scale Appendix "A"	B.T.C. Scale Plus 9% and 7% Increases	B.T.C. Scale with Increases plus 8·2%	Final B.T.C. Scale Appendix "B"
2700.....	968	926	971	824	961	1040	1018
2725.....	974	932	997	830	968	1047	1032
2750.....	980	938	997	836	975	1055	1032
2775.....	985	944	997	842	982	1063	1046
2800.....	992	950	997	848	989	1070	1046
2825.....	997	956	1022	854	996	1078	1060
2850.....	1003	962	1022	860	1003	1085	1060
2875.....	1009	968	1022	866	1010	1093	1074
2900.....	1014	974	1022	872	1017	1100	1074
2925.....	1021	980	1047	878	1024	1108	1088
2950.....	1026	986	1047	884	1031	1116	1088
2975.....	1033	992	1047	890	1038	1123	1102
3000.....	1038	998	1047	896	1045	1131	1102
3025.....	1041	1004	1072	902	1052	1138	1116
3050.....	1045	1010	1072	908	1059	1146	1116
3075.....	1049	1016	1072	914	1066	1153	1130
3100.....	1052	1022	1072	920	1073	1161	1130
3125.....	1055	1028	1096	926	1080	1169	1144
3150.....	1059	1034	1096	932	1087	1176	1144
3175.....	1063	1040	1096	938	1094	1184	1158
3200.....	1066	1046	1096	944	1101	1191	1158
3225.....	1070	1052		950	1109	1200	1172
3250.....	1073	1058		956	1115	1206	1172
3275.....	1076	1064		...			1186
3300.....	1080	1078		...			1186

(1) The mileage distances used herein are the same as the Appendix "A" scale, and the comparisons are for those distances only; it should be understood that in other scales the mileage blocks and rates differ at intermediate distances.

(2) C.N.R. "basic" mileage scale; the C.N.R. "group" scale is on the same basis, but generally produces rates that are somewhat higher or lower than the basic scale, because of the grouping of the mileages in the rate blocks.

(3) The 8·2% increase is the deficiency claimed by the C.P.R. in the Board's interim scale based upon revenue tests after the 9% and 7% increases.

APPENDIX B SCALE

Uniform Scale of Mileage Class Rates for application between points in Canada

(Levis, Que., Diamond, Que., Boundary, Que., and West thereof)

Rates in Cents per 100 Pounds

Present Class:									(4)	
	1	2	3	4	5	6	7	8	9	10
New Class:										
	100%	85%	70%	55%	45%	40%	33%	30%	...	27%
Miles										
20	50	43	35	28	23	20	17	15	...	14
25	55	47	39	30	25	22	18	17	...	15
30	60	51	42	33	27	24	20	18	...	16
35	65	55	46	36	29	26	21	20	...	18
40	70	60	49	39	32	28	23	21	...	19
45	75	64	53	41	34	30	25	23	...	20
50	80	68	56	44	36	32	26	24	...	22
55	85	72	60	47	38	34	28	26	...	23
60	90	77	63	50	41	36	30	27	...	24
70	95	81	67	52	43	38	31	29	...	26
80	100	85	70	55	45	40	33	30	...	27
90	105	89	74	58	47	42	35	32	...	28
100	110	94	77	61	50	44	36	33	...	30
125	120	102	84	66	54	48	40	36	...	32
150	130	111	91	72	59	52	43	39	...	35
175	140	119	98	77	63	56	46	42	...	38
200	150	128	105	83	68	60	50	45	...	41
225	159	135	111	87	72	64	52	48	...	43
250	168	143	118	92	76	67	55	50	...	45
275	177	150	124	97	80	71	58	53	...	48
300	186	158	130	102	84	74	61	56	...	50
325	195	166	137	107	88	78	64	59	...	53
350	204	173	143	112	92	82	67	61	...	55
375	213	181	149	117	96	85	70	64	...	58
400	222	189	155	122	100	89	73	67	...	60
425	231	196	162	127	104	92	76	69	...	62
450	240	204	168	132	108	96	79	72	...	65
475	249	212	174	137	112	100	82	75	...	67
500	258	219	181	142	116	103	85	77	...	70
525	267	227	187	147	120	107	88	80	...	72
550	276	235	193	152	124	110	91	83	...	75
575	285	242	200	157	128	114	94	86	...	77
600	294	250	206	162	132	118	97	88	...	79
625	303	258	212	167	136	121	100	91	...	82
650	312	265	218	172	140	125	103	94	...	84
675	321	273	225	177	144	128	106	96	...	87
700	330	281	231	182	149	132	109	99	...	89
725	339	288	237	186	153	136	112	102	...	92
750	348	296	244	191	157	139	115	104	...	94
775	357	303	250	196	161	143	118	107	...	96

APPENDIX "B" SCALE—*Continued*

Uniform Scale of Mileage Class Rates for application between points in Canada

(Levis, Que., Diamond, Que., Boundary, Que., and West thereof)

Rates in Cents per 100 Pounds

Present Class:	1	2	3	4	5	6	7	8	(4) 9	10
New Class:	100%	85%	70%	55%	45%	40%	33%	30%	...	27%
Miles										
800	366	311	256	201	165	146	121	110	...	99
825	375	319	263	206	169	150	124	113	...	101
850	384	326	269	211	173	154	127	115	...	104
875	393	334	275	216	177	157	130	118	...	106
900	402	342	281	221	181	161	133	121	...	109
925	411	349	288	226	185	164	136	123	...	111
950	420	357	294	231	189	168	139	126	...	113
975	429	365	300	236	193	172	142	129	...	116
1000	438	372	307	241	197	175	145	131	...	118
1025	447	380	313	246	201	179	148	134	...	121
1050	456	388	319	251	205	182	150	137	...	123
1075	465	395	326	256	209	186	153	140	...	126
1100	474	403	332	261	213	190	156	142	...	128
1125	483	411	338	266	217	193	159	145	...	130
1150	492	418	344	271	221	197	162	148	...	133
1175	501	426	351	276	225	200	165	150	...	135
1200	510	434	357	281	230	204	168	153	...	138
1225	519	441	363	285	234	208	171	156	...	140
1250	528	449	370	290	238	211	174	158	...	143
1275	537	456	376	295	242	215	177	161	...	145
1300	546	464	382	300	246	218	180	164	...	147
1325	555	472	389	305	250	222	183	167	...	150
1350	564	479	395	310	254	226	186	169	...	152
1375	573	487	401	315	258	229	189	172	...	155
1400	582	495	407	320	262	233	192	175	...	157
1425	591	502	414	325	266	236	195	177	...	160
1450	600	510	420	330	270	240	198	180	...	162
1475	609	518	426	335	274	244	201	183	...	164
1500	618	525	433	340	278	247	204	185	...	167
1550	636	541	445	350	286	254	210	191	...	172
1600	654	556	458	360	294	262	216	196	...	177
1650	672	571	470	370	302	269	222	202	...	181
1700	690	587	483	380	311	276	228	207	...	186
1750	708	602	496	389	319	283	234	212	...	191
1800	726	617	508	399	327	290	240	218	...	196
1850	744	632	521	409	335	298	246	223	...	201
1900	762	648	533	419	343	305	251	229	...	206
1950	780	663	546	429	351	312	257	234	...	211
2000	798	678	559	439	359	319	263	239	...	215
2050	814	692	570	448	366	326	269	244	...	220

APPENDIX "B" SCALE—*Continued*

Uniform Scale of Mileage Class Rates for application between points in Canada

(Levis, Que., Diamond, Que., Boundary, Que., and West thereof)

Rates in Cents per 100 Pounds

Present Class:									(4)	
	1	2	3	4	5	6	7	8	9	10
New Class:										
	100%	85%	70%	55%	45%	40%	33%	30%	...	27%
Miles										
2100	830	706	581	457	374	332	274	249	...	224
2150	846	719	592	465	381	338	279	254	...	228
2200	862	733	603	474	388	345	284	259	...	233
2250	878	746	615	483	395	351	290	263	...	237
2300	894	760	626	492	402	358	295	268	...	241
2350	910	774	637	501	410	364	300	273	...	246
2400	926	787	648	509	417	370	306	278	...	250
2450	942	801	659	518	424	377	311	283	...	254
2500	958	814	671	527	431	383	316	287	...	259
2550	974	828	682	536	438	390	321	292	...	263
2600	990	842	693	545	446	396	327	297	...	267
2650	1004	853	703	552	452	402	331	301	...	271
2700	1018	865	713	560	458	407	336	305	...	275
2750	1032	877	722	568	464	413	341	310	...	279
2800	1046	889	732	575	471	418	345	314	...	282
2850	1060	901	742	583	477	424	350	318	...	286
2900	1074	913	752	591	483	430	354	322	...	290
2950	1088	925	762	598	490	435	359	326	...	294
3000	1102	937	771	606	496	441	364	331	...	298
3050	1116	949	781	614	502	446	368	335	...	301
3100	1130	961	791	622	509	452	373	339	...	305
3150	1144	972	801	629	515	458	378	343	...	309
3200	1158	984	811	637	521	463	382	347	...	313
3250	1172	996	820	645	527	469	387	352	...	316
3300	1186	1008	830	652	534	474	391	356	...	320

(4) 9th Class in the present freight classification consists of Livestock in Carloads, but this class is very seldom used as Livestock usually is carried at "commodity" rates. In the revised freight classification, Livestock will be rated in carloads at 40% for Horses and 33% for Cattle, Hogs and Sheep, which are approximately equivalent to the present mileage scales.

Source:

Board of Transport Commissioners for Canada,

Order No. 83242,

Dated March 1, 1954.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of Transport Commissioners for Canada

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Application of The Bell Telephone Company of Canada for approval of rates for extended area telephone service between Toronto and certain exchanges in the area surrounding Toronto.

File C. 955·170·2

JUDGMENT

BY THE BOARD:

By application dated October 29, 1954, The Bell Telephone Company of Canada, hereinafter called the Company, submitted for approval a plan of extended area service which it proposes to give in respect of telephone exchange service between the Toronto exchange and certain other exchanges in the suburban districts of Toronto. The essence of the plan which the Board has to consider is the tariff charges which will prevail if the plan is adopted.

The substance of what is proposed may be summarized as follows:

Consequent upon the continued development of suburban areas surrounding Toronto, both for residential purposes and for business concerns, a community of interest between the areas involved is apparent and the plan contemplates providing free calling exchange service between such areas in lieu of existing toll (long distance) service.

Before proceeding to outline the scheme here involved, it is pointed out that in our 1950 Judgment dealing with increased telephone rates for the Company (67 C.R.T.C. 1) we also dealt with a plan for the provision of so-called "Metropolitan Service" which the Company proposed to extend to the cities of Toronto, Montreal, Quebec, Ottawa, Hamilton, and Windsor.

In that Judgment we said:

"The Metropolitan plan contemplates projecting into suburban areas the facility of free calling from the suburban area to the related urban area, such as from the Weston, Willowdale or Agincourt areas to the Toronto exchange area. Conversely the Toronto base rate area subscribers would have free calling to subscribers in the adjoining suburban areas. A further feature of the plan is that suburban subscribers would have free calling privileges with adjoining suburban exchanges, such as Weston may call Islington or Willowdale, but would incur toll charges if calling non-adjoining suburban exchanges.

"Introduction of the metropolitan plan carries with it payment of exchange rates at the level of those applicable to the urban exchange. That is, the Weston subscriber would pay the same rate as Toronto. The plan thus contemplates adding the total telephones of the suburban exchanges to the total of the urban exchange and the grand total thus obtained establishes the exchange rate for the metropolitan group. Metropolitan service is to be non-optional and Mr. Hambly stated that no opposition had yet appeared to it, but if it were opposed it would require re-study of all requirements.

"Mr. Hambly also stated that the plan would supersede optional suburban zone service; foreign exchange service, and extended area service; that the trend is for a greater proportion of people working in large centres to move their residence to suburban areas, but have social and economic need to retain contact with the city; that a number of suburban customers now pay charges in excess of city rates and many restrict calls to and from the city on account of the necessity of paying toll charges.

"While it appears that considerable benefits would result from the adoption of the Metropolitan plan, it must be noted that it was not proposed to solicit the views of the subscribers concerned on their acceptance. Page 11 of Exhibit 122 shows that a substantial growth in demand for suburban zone service, and foreign exchange service, has occurred since 1939 in the Toronto, Montreal, and Quebec areas, and similarly with extended local service in the Ottawa area.

"Pages 14 and 17 of Exhibit 122 shows the percentage of total suburban subscribers whose charges exceed city rates, under both the present and proposed rates. These percentages are as follows:

Metropolitan Area	*Date of Study*	*Percent of total suburban*	
		Present	*Proposed*
Toronto	Mar. 1948	49·3	45·9
Montreal	Nov. 1948	47·4	43·9
Ottawa	Mar. 1949	54·2	50·0
Hamilton	Jun. 1949	28·6	36·3
Quebec	Apr. 1949	26·0	**17·4**
Windsor	Apr. 1949	52·6	48·2

"Requests have been made to the Board from time to time, to direct the Company to extend urban service into suburban areas, or to modify charges for foreign exchange service. Reference to recent cases is as follows:

"*Quebec-Montmorency Chamber of Commerce* v. *Bell Telephone Co.*, 46 C.R.C. 203; *Town of Weston* v. *Bell Telephone Co.*, 48 C.R.C. 145; *Town of Mimico* v. *Bell Telephone Co.*, 48 C.R.C. 180; *Township of Etobicoke* v. *Bell Telephone Co.*, 48 C.R.C. 222; *Jas. F. Phillips* v. *Bell Telephone Co.*, 52 C.R.T.C. 49; *Miss Sophie Kohen* v. *Bell Telephone Co.*, 52 C.R.T.C. 3; *Municipality of St. Dunstan* v. *Bell Telephone Co.*, 62 C.R.T.C. 188.

"The Etobicoke and Mimico cases, *supra*, were applications seeking telephone service as part of the City of Toronto. In the Mimico case we pointed out that the extension of the urban rates would have been beneficial to only 211 subscribers, and that 688 subscribers would be compelled to pay increased charges; in the aggregate the reductions were less than the increases. We also commented therein that the Board was without power to direct the Company to extend its Toronto base rate area to include Mimico, but that we had the power and jurisdiction to deal with all questions of unreasonableness or unjust discrimination in respect of telephone tolls resulting from the establishment, redivision and readjustment of base rate boundaries.

"The Metropolitan plan now proposed is, in effect, an extension of the base rate boundaries of the urban exchange. It affords to those situated within the city areas a completely extended service to and from the suburban areas, but it will result in substantial increase in the local rates of the suburban exchanges, which would directly affect those who require only the local service provided by the suburban exchange.

"The percentage of total suburban subscribers who would benefit from the introduction of metropolitan service is quite low. I do not think it is appropriate for the Board to consider approving the proposed rate basis for these suburban zones without some indication showing that a substantial majority of the suburban subscribers are agreeable to the introduction of the plan. I am also not convinced that the restriction of free calling by the suburban subscribers, under the proposed plan, to adjoining exchanges does not contain an element of unjust discrimination. These subscribers would be compelled to pay the same rate as applicable in the urban area, but the subscribers in the latter area would have the privilege of free calling throughout the entire metropolitan area.

"I realize that suburban subscribers who now pay extended rate zone charges would benefit by the plan, but until the objections I have set out above have been dealt with, I do not think the Board should, at this time, give its approval to the metropolitan rate basis as proposed."

Following the Board's decision as above recited, the first area to be canvassed was Montreal, where 83 per cent of the subscribers voted on the acceptance of the plan, which had then become known as "Extended Area Service" in lieu of its former designation. Ninety-one per cent of those voting were in favour of the plan, and represented 77 per cent of the total subscribers affected. The results of the plebiscite satisfied the Board that the plan was acceptable to the majority.

At that time the Board also gave consideration to the matter of possible unjust discrimination as referred to in the earlier Judgment.

The following is an extract from the Board's Judgment of March 6, 1951 (67 C.R.T.C. 99):

"The Board has also given consideration to the differences set out in our previous decision which result from the application of the plan. These differences are relatively small and occur only with respect to calling from a suburban exchange to a non-adjacent suburban exchange. Due to technical and physical features, it has been fully demonstrated to us that free calling throughout the entire area cannot be accorded and therefore it has been made manifestly clear that inter-urban calling between non-adjacent suburban exchanges involves circumstances and conditions not existing elsewhere in the area. For these reasons we do not consider the difference in treatment amounts to unjust discrimination."

Similar steps were later taken in the Toronto area with respect to the suburban exchanges of New Toronto, Islington, Weston, Willowdale and part of Scarborough. The Scarborough exchange was subdivided and only that part adjoining the Toronto exchange came within the scope of the plan. The remaining part of Scarborough exchange became the West Hill exchange which while retaining free calling with Scarborough was not made part of the extended service plan—a matter which was the cause of considerable complaint by the persons concerned.

In our Judgment of August 28, 1951 (67 C.R.T.C. 292) we set out the result of the plebiscite thus conducted, as follows:

"

Exchange	*Per cent of subscribers voting in favour of the plan, of* *Total Subscribers*	*Total subscribers who voted*
New Toronto	69·3	90·9
Islington	86·8	98·7
Weston	81·1	93·6
Willowdale	82·6	98·3
Scarborough (West of Livingston Road)	88·8	99·2

"

Similar plebiscites conducted in the other areas where the plan was also proposed to be instituted, showed like results. In general, the plan met with approval of a substantial majority of the subscribers, thereby indicating that the increased cost involved was of secondary or minor importance compared with the advantages gained by the increased scope of service.

In the Toronto area the Extended Service went into operation in Islington, Weston and Willowdale on March 16, 1952, and in New Toronto, Plymouth, and Scarborough on March 22, 1953. The Plymouth exchange comprised that part of the Agincourt exchange which adjoined the Scarborough and Toronto exchanges. The remaining part of the Agincourt exchange area adjoining the Toronto exchange is yet to be dealt with, but will become the North East exchange.

In the application here involved, including the Sterling exchange which was formerly part of the Weston exchange, it is proposed to reduce the eight suburban exchange areas into four for the purpose of free calling within and to and from Toronto and adjacent suburban exchange areas. That is Scarborough and Plymouth will comprise one area thereby enabling Scarborough customers to call North East and Willowdale as freely as Toronto; Willowdale and North East comprise one area with free calling to Plymouth-Scarborough and Weston-Sterling as well as Toronto; Weston and Sterling also comprise one area and thus will be able to call Islington-New Toronto, and Willowdale-North East as well as Toronto; Islington and New Toronto will be able to call Weston and Sterling as well as Toronto.

The expansion of these free calling zones as above described, does not include the additional free calling zones which will result from the further expansion of Extended Area Service as will be shown in the next paragraph.

In the application now before us, these eight suburban exchanges are designated "Group A" and are colloquially known as "first fringe exchanges". The application contemplates the establishment of extended area service to exchanges designated as "Group B" or "second fringe" comprising the Port Credit, Cooksville, Malton, Woodbridge, Thornhill, Agincourt, and West Hill exchanges. These second fringe exchanges are to be accorded the same calling privileges with the Toronto exchange as the first fringe, and in addition with the exchanges in the first fringe which adjoin them. Thus in addition to calling

with Toronto, and within its own exchange, West Hill will have free calling with Agincourt, Plymouth and Scarborough; Agincourt with West Hill, Plymouth, Scarborough, Willowdale, North East and Thornhill; Thornhill with Agincourt, Willowdale, North East, Sterling, Weston and Woodbridge; Woodbridge with Thornhill, Sterling, Weston and Malton; Malton with Woodbridge, Weston, Sterling, Islington, New Toronto, and Cooksville; Cooksville with Malton, Islington, New Toronto, and Port Credit; and Port Credit with Cooksville, Islington, and New Toronto.

The community of interest between the subscribers of the first fringe exchanges and Toronto was demonstrated by the plebiscites previously referred to. The Company now states that a similar community of interest is demonstrated by the following summary of the annual volume of long distance calls between the exchanges which would be eliminated under the proposed plan:

	Based on telephones in service at Sept. 30, 1954	*Based on telephones estimated to be in service at Dec. 31, 1955*
Calls between:		
Toronto and Group B	3,456,000	3,903,000
Group A (now long distance)	445,000	519,000
Groups A and B (now long distance)	1,181,000	1,422,000
Group B (now long distance)	50,000	59,000
Total	5,132,000	5,903,000

Further evidence of the community of interest was demonstrated by thirteen applications and representations made to the Board by persons and organizations in the West Hill, Thornhill, Port Credit and other districts. The Township of Scarborough on April 13, 1954 made formal application to us seeking modification of existing rates for telephone service between West Hill and Toronto and for service comparable with that accorded to the Scarborough first fringe exchange, representing that the West Hill subscribers were in substantially the same position as the Scarborough subscribers as far as their business and social activities are concerned.

This application was set down for hearing on June 23, 1954 but the hearing was postponed due to information reaching the Board that the Company was formulating a broad plan of relief to telephone users in the whole of the second fringe area. It should be here noted that the said Township has now withdrawn its application and gives its whole support to the plan the Company now proposes.

As evidence of the growth of population and telephone demand the Company's application includes the following statement to show the rapid growth of the area:

"Exchange

	Population			Telephones		
	1952	1955	% Increase	1952	1955	% Increase
Toronto	894,577	*989,250	10·58	400,863	*453,800	13·21
Group A	240,493	309,950	28·88	44,961	112,493	150·2
Group B	58,483	86,625	48·12	10,720	23,895	122·9
Total area	1,193,553	1,385,825	16·11	456,544	590,188	29·27

* Estimated.

The Company estimates that by discontinuing present long distance and foreign exchange service between the exchanges involved in the plan and providing the additional equipment required for the extended area service will result in an annual loss of revenue approximating $1,119,000. By increasing the rates now charged the Group B exchanges to the level of present Toronto rates would reduce this loss to approximately $696,000. It proposes to recoup this deficiency in revenue by increasing the present Toronto exchange rates by 10 cents per month for residence service and 25 cents per month for business service; to charge such increased Toronto rates throughout the whole of the Group A area, and to charge the Group B subscribers 50 cents per month for residence service and $1.00 per month for business service in addition to the revised Toronto rates.

Taking individual line service as an example, the following are the present and proposed monthly rates for each affected exchange:

Exchange	*Business*		*Residence*	
	Present	*Proposed*	*Present*	*Proposed*
Toronto, Weston, Sterling, Willowdale, North East, Islington, New Toronto, Plymouth, Scarborough	$14.35	14.60	5.35	5.45
Port Credit, Cooksville, West Hill	$ 7.40	15.60	3.90	5.95
Malton	$ 8.40	15.60	4.15	5.95
Agincourt, Thornhill	$ 6.50	15.60	3.65	5.95
Woodbridge	$ 5.85	15.60	3.45	5.95

The Company states that in the apportionment of the revenue deficiency amongst the customers who will enjoy the enlarged service it has taken into account the special circumstances and conditions involved, which include not only the special facilities necessary to handle the calls over distances normally reached by long distance service, but also the provision of such facilities in sufficient quantity to handle the vastly increased volume of calling which will result from the abolition of toll charges. It contends that it is principally its customers in Group B who seek extension of service and who will enjoy the greatest benefit from the enlarged service.

The Company also state that the plan can only be implemented if all the exchanges are included, consequently it is contingent upon the general acceptance of the plan. It reserved the right to withdraw the plan if, in its judgment, opposition to it warrants doing so.

Because of the Board's familiarity with the extended area service by its previous consideration of the arrangement now in effect in respect of Group A exchanges, and because of the pending case of the Township of Scarborough and other representations of a similar kind, the Company, before filing its formal application, sought and obtained a provisional discussion with the Board wherein the various aspects of the plan were made known to the Board. This discussion took place on October 4, 1954 at which time it was decided that the fullest possible publicity would be given to the Company's proposal

through the medium of newspaper advertising, direct advice to subscribers and by serving copies of the application upon the various parties who had made representations respecting the service involved.

Announcement of the plan, with descriptive details, appeared in the daily newspapers in Toronto on October 19, 1954, and in weekly issues of October 18, 1954 throughout the entire area affected. The total circulation of these newspapers is said to be 948,994. Each of 334,364 subscribers in the Toronto and Group A exchanges received direct notice of the company's proposed plan. Complete details of the plan contained in a special circular letter were sent to the subscribers proposed to be brought within its scope in the Group B exchanges; these totalled 13,484. One hundred and fifteen subscribers in the Woodbridge exchange not affected by the proposed service were advised thereof and of what plans were in progress for their future service.

Copies of the application were served upon the Municipality of Metropolitan Toronto; the City of Toronto; on each of the Corporations of Towns, Villages, and Townships throughout the affected area; Trustees of Police Villages; 26 community associations, clubs and commissions; and upon three residents of West Hill. A copy was also forwarded to the Toronto Board of Trade, making a total of 57 copies so distributed.

The manner in which the proposed plan was brought to the attention of all interested parties was to enable the making of any relevant representations to us before formal consideration was given to the application. Upon the Company making known that it intended to present the application on November 1, 1954, we directed that the notices, so disseminated amongst 347,848 subscribers who would be directly involved if the plan is adopted and others reached through other means, include advice to the effect that such representations reach us by November 15, 1954.

Thirty-one communications were received from individuals on their own behalf or representing associations or municipal and like bodies, in which unqualified approval was expressed of the Company's plan. Ten others expressed qualified approval of which three later withdrew any opposition. The remaining seven of those expressing qualified approval were mainly of the opinion that the plan should provide unlimited free calling throughout the entire area and in some cases expressing dissatisfaction at not being connected to the Toronto exchange.

Sixteen communications from individuals in their own behalf or of associations voiced opposition to the plan. Of these two are located in exchange areas not within the scope of the plan, therefore their representations cannot now be considered. A brief summary of the various reasons for the opposition is as follows: "Metropolitan Toronto should have complete service before extending it to rural points"; "Infrequent users must pay for service used by others"; "Cost too high—rarely call Toronto—users should pay"; "Would be agreeable if plan extended further"; "Reduction in income—most calls go to Toronto collect"; "Free calling would cause congestion—extra cost more than long distance charges"; "Very few calls required—opposed to increase until uniform cost and service throughout metropolitan area"; "plan should apply to entire metropolitan area—otherwise limited service areas should pay less than Toronto"; "Unable to afford increase—make little use of long distance"; "More important to provide phone service to those unable to secure service"; "By being transferred from the Toronto exchange to a Group A exchange has been deprived of certain free calling—not interested in scope of plan—objects to increased rates—no benefit to city subscriber."

Each of those who made representations which in any way indicated total or partial opposition to the plan was furnished with the Company's answer thereto, pursuant to which certain parties withdrew their objections.

Some of the representations on behalf of industries or industrial associations appeared to stress the disability suffered by not being connected to the Toronto exchange. In some cases the industries had previously enjoyed such Toronto service. We have been asked to particularly give this question our careful consideration in weighing up the different representations and other considerations. In general, where an industry, or group of industries has previously enjoyed the urban service it has been in the period before the rapid development of the outlying areas has necessitated creation of additional exchanges or expansion of existing suburban services.

The base rate area of an exchange does not necessarily follow municipal boundaries. Considerations of geographical location, technical problems, excessive expense in providing telephone facilities and many other factors enter into the matter. In the large exchange areas, such as Toronto, wire centres are created which terminate the line of the subscriber in a central office from which calls are distributed as required by the customer. In the Toronto exchange there are 34 such central offices. Each central office must be connected to the other by means of inter-office channels in sufficient quantity to handle the demands of the entire exchange customers. These channels are relatively short and therefore can be effected by facilities of less rigid standards than required for longer distances.

Extended Area Service differs with the inter-office service in that each outlying exchange is connected to the nearest central office in the urban exchange, from which point service is channelled through the inter-office facilities from and to the point of connection. To provide unlimited calling throughout the entire Toronto, Group A and Group B area would require the establishment of vastly superior inter-office facilities crossing and criss-crossing the whole area in a vast network of wire and at very heavy expense. The incidence of calling between non-adjacent suburban exchanges is very light, yet the facilities to provide unlimited calling would, of necessity, have to contemplate and provide for very much greater volume of traffic than is now indicated. Any such provision of complete calling facilities would be reflected in considerably higher rates than now proposed.

Where an industry has located in suburban areas and requires the complete service, the same is now available to it, but only upon subscribing to foreign exchange service. By such means, the desired service may be obtained but the cost thereof is payable only by the one receiving the benefit. We are of the opinion that the ability to secure foreign exchange service is sufficient to dispose of this form of complaint.

What we have said respecting the problems and expense involved in providing complete service is sufficient to dispose of those opposing the plan for lack of complete service.

The objections which go to the failure of the Company to extend the proposed service even further cannot now be considered. In any scheme where lines of demarcation must be drawn there arises the problem of where to strike such line. We have already discussed the problem of increasing expense involved in long inter-office facilities, the same applies to lines leading from the exchange or wire centres to the subscribers' premises. There must be a limit. In the same manner, under existing conditions, exchanges in areas outside of Group B cannot now be brought into the proposed plan. Probably, at some future date, the necessity for a broad plan of third fringe exchanges may develop and will, in turn, involve questions of how to be met physically and financially.

Naturally there are persons enjoying phone service which would satisfy their need if it was limited to the territory in which they reside. In a plan such as is here reviewed, the wishes of the majority must prevail and all

indications point exceedingly clearly to the fact that the majority in favour of the plan is a very substantial one. Out of 83,566 customers in the Groups A and B exchanges as at November 1954, it is estimated that 82,460 favour the plan either by direct representation to that effect or by not having voiced any objections. No definite figure may be obtained of the number objecting inasmuch as representations from Associations do not indicate the numbers comprising their memberships and whether all of the members or only part thereof are so minded.

After full and careful consideration of all that has been submitted we have reached the conclusion that the majority of those affected approve the plan.

Such approval must also signify acceptance of the proposed rates. It is the latter with which our duty mainly lies and with which our decision must chiefly concern.

The exchange rate structure of the Company is predicated upon ten groupings according to the total number of telephones in service in the exchange. These groups by total telephone count were last adjusted in the 1950 revenue case. The principle which governs them is that of value of service, i.e., the greater the range of calling the higher the charge. The factor which makes for the greater calling range is the telephones interconnected within an exchange.

The principle upon which extended area service is founded is no different than that which governs the size of the rate groups, but there is the additional factor of expense incurred in providing the connecting facilities over distances generally greater than those for intra-exchange purposes.

Obviously there can be no disputing the propriety of charging the same rate as in the Toronto exchange to exchanges linked thereto and enjoying equal calling privileges with each other. That fact was recognized in approving the extended service to the first fringe exchanges.

As to the difference between the service rendered to the "fringe" exchanges and the Toronto exchange when communication is involved between non-adjoining "fringe" exchanges, it is there that the impact of increased expense justifies the restriction placed upon the fringe exchange. The alternative would result in such a heavy increase in the expense of providing the necessary facilities as to outweigh any benefit which might be obtained by only a few of the affected subscribers—an expense which all would be called upon to bear proportionately. Hence it is most important to keep in mind the community of interest involved and the extent thereof.

An example of the incidence of calling between the Plymouth exchange and other non-adjacent exchanges has been obtained from the Company. The facts it discloses are enlightening upon the question of the reasonableness of the restriction and the lack of justification for proceeding with the provision of complete integration of calling facilities:

Plymouth exchange to	*No. of calls per month*	*Average calls per telephone*
Weston	3,091	1 call every 3½ months
Islington	1,903	1 " " 6 "
New Toronto	1,427	1 " " 8 "
Thornhill	286	1 " " 39 "
Woodbridge	73	1 " " 153 "
Malton	31	1 " " 360 "
Cooksville	68	1 " " 164 "
Port Credit	304	1 " " 37 "

If this is contrasted with the tabulation prevoiusly given herein showing more than 4½ million calls between Toronto and Group B, and between Groups A and B, where toll rates are now applicable and would be displaced by the proposed plan, it is quite evident that no great hardship is imposed on the relatively little traffic which will remain subject to toll charges. More important is the fact that such small volume of traffic would not presently justify the expense necessary to provide complete service throughout the whole area. It is the Board's understanding that complete free calling service could be provided but the expense involved would require much higher rates throughout the whole area.

The principle of assessing a surcharge on the Group B exchanges has been considered and in view of the vastly increased range of calling, the latter is unquestionably of greatest benefit to the subscribers of these exchanges. The surcharges are moderate and appear reasonable in all the prevailing circumstances. An estimate of the toll revenue which will be lost by the adoption of the extended exchange service for Group B, at December 1955 is that it would average $3.29 per main telephone per month, whereas a similar estimate indicates that the increased exchange revenue would average $2.68 per main telephone per month. On this premise there is no evidence of unreasonableness in the charges which must be imposed and which include the surcharge.

The increase in exchange rates for Toronto and Group A of 10 cents residence, and 25¢ business, per month is in recognition that these subscribers stand to gain greatly increased range of service beyond the concept of the existing exchange rate group basis. No opposition has been voiced to this small additional charge and we find that it is reasonable in all the prevailing circumstances.

Our conclusion in this matter is that the Company's plan meets all reasonable demands made upon it for additional service; that the plan meets with general approval of a substantial majority of the affected subscribers; and that we have not found any evidence of unreasonableness or unjust discrimination in the rates proposed to be charged.

We are not charged with any power to fix exchange boundaries. Such matters are managerial questions upon which technical and geographic conditions are bound to play a major part. The reasonableness of applying the urban rates to the entire extended area has been previously approved and we affirm that decision here. The imposition of an additional charge to the basic Toronto exchange rates has been justified by the factors of increased expense and loss of toll revenue. The plan meets all the objects of those who have been seeking the additional facilities and creates comparable facilities amongst all exchanges in the area involved.

We have been requested by the Company to expedite our decision. Approval thereof is awaited before entering upon the work involved in providing the extended facilities and allocating the capital funds to defray such expenses. Our consideration has been upon the written submissions—no hearing was requested.

It is our decision, therefore, that the proposed plan in respect of the rates to be charged is hereby approved. It is estimated by the Company that some 18 months will be required to bring the plan into operation. Upon the filing of the necessary tariff matter, on statutory notice, publishing the rates herein referred to, an Order will issue granting formal approval thereof.

HUGH WARDROPE,
A. SYLVESTRE,
H. B. CHASE,
O. A. MATTHEWS.

OTTAWA, January 31, 1955.

GENERAL ORDER No. 805

In the matter of the Rules and instructions for the inspection and testing of locomotive boilers and their appurtenances:

File No. 16513

TUESDAY, the 1st day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the rules and instructions for inspection and testing of locomotive boilers and their appurtenances prescribed by General Order No. 473, dated May 22, 1929, as amended by General Order No. 531, dated December 18, 1934, General Order No. 725, dated June 1, 1949, and General Order No. 760, dated July 31, 1951, be, and they are hereby amended by

(*a*) striking out Rule 11 as prescribed by General Order No. 473 and substituting therefor the following:

"Inspection of Exterior of Boiler

(11) *Lagging to be Removed*—The jacket and lagging shall be removed after sixty calendar months' service provided such service is performed within six consecutive years and a thorough inspection made of the entire exterior of the boiler while under hydrostatic pressure. The jacket and lagging shall also be removed whenever, on account of indications of leaks, the Board's Inspector or the railway company's Inspector considers it desirable or necessary.

The period for inspection of the exterior of boilers built or rebuilt subsequent to January 1, 1923, may be extended in certain cases, upon formal application to the Board's Director of Operation, if investigation shows that such extension of time is warranted."

(*b*) by striking out rule 18(*a*) as prescribed by General Order No. 725 and substituting therefor the following:

"Method of testing flexible staybolts with caps

(18)(*a*) All staybolts equipped with caps over the outer ends shall have the caps removed upon completion of 60 calendar months actual service, provided such service is performed within 6 consecutive years, at which time all bolts and sleeves must be examined and effectively tested for breakage or fracture. Portions of calendar months out of service will not be counted. Time out of service must be properly accounted for by out of service reports, and notations of months claimed out of service made on the back of each subsequent inspection report and cabcard. Each time a hydrostatic test is applied, the hammer test required by Rules 16 and 17 must be made while the boiler is under hydrostatic pressure not less than the allowed working pressure.

Locomotives of United States railway companies running in International service between United States and Canada are permitted to operate in Canada provided the requirements of the Interstate Commerce Commission regarding staybolts are fully complied with.

Where boilers have been built or re-built subsequent to January 1, 1923, the period for removal of caps and examination of bolts and sleeves may be extended in certain cases upon formal application to the Board's Director of Operation, if investigation shows that such extension of time is warranted."

HUGH WARDROPE,
Assistant Chief Commissioner,

GENERAL ORDER No. 807

In the matter of approval of Supplement No. 3 to the Board of Transport Commisisoners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717.B

TUESDAY, the 1st day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the said Supplement No. 3 to the Board of Transport Commissioners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, on file with the Board under file No. 1717.B, be, and it is hereby authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That this General Order No. 807 shall come into force on the 30th day of June, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85655

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, 1938, for approval of an agreed charge dated January 17, 1955, between Canadian National Railways, Canadian Pacific Railway Company, Northern Alberta Railways and Husky Oil & Refining Ltd., on petroleum products, carloads, in tank cars only, from Lloydminster, Alberta-Saskatchewan, to points in Alberta and Saskatchewan:

File No. 40994.28

FRIDAY, the 25th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the said application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objection having been filed—

It is ordered that the said Agreed Charge, on file with the Board under file No. 40994.28, between the Canadian National Railways, Canadian Pacific Railway Company, Northern Alberta Railways Company and Husky Oil & Refining Ltd., on petroleum products, carloads, in tank cars only, as described in paragraph B thereof, from Lloydminster, Alberta-Saskatchewan, to points in Alberta and Saskatchewan, be, and it is hereby approved to become effective January 28, 1955, and to continue in effect until terminated in accordance with Condition 6 of the agreement.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85656

In the matter of the application of Calor Gas Limited, San Francisco, Calif., for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 78 as approved by the Board:

File No. 40994.66

FRIDAY, the 25th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Calor Gas Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from Shellburn and Stanovan, British Columbia, to stations and/or places as set out in paragraph C(2) in Agreed Charge C.T.C. (AC) No. 78, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 78 for the transport by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said tariff, shipped by Calor Gas Limited from Shellburn and Stanovan, British Columbia, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85658

In the matter of the application of Chrysler Corporation of Canada, Limited, Windsor, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 83 as approved by the Board:

File No. 40994.71

FRIDAY, the 25th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Chrysler Corporation of Canada, Limited, has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger, and automobile chassis from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 83, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 83 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger, and automobile chassis as described in paragraph B of the said tariff, shipped by Chrysler Corporation of Canada, Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85678

In the matter of the application of the Abitibi Navigation Company, Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076.18

THURSDAY, the 3rd day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (WT) 300 be issued to the Applicant licensing for the period of one year commencing January 15, 1955, the following ship to transport goods by water between all ports and places in Canada in the areas designated herein:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Wahcondah	102577	1575

Between all ports or places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85681

In the matter of the application of Yankcanuck Steamships Limited for a licence under section 10 of the Transport Act:

File No. 42076.48

THURSDAY, the 3rd day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (WT) 301 be issued to Yankcanuck Steamships Limited licensing for the period of one year commencing January 15, 1955, the following ships to transport iron and steel products consisting of bars, billets, slabs, strip or skelp, by water between all ports and places in Canada on Lakes Ontario, Erie, Huron, (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans—

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Manzzutti	145462	1528
Mancox	145465	1550

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85693

In the matter of the application of International Harvester Company of Canada, Limited, Chatham, Ontario, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 83 as approved by the Board:

File No. 40994.71

FRIDAY, the 4th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the International Harvester Company of Canada, Limited, has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from Chatham, Ontario, to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 83, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 83 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said Agreed Charge, shipped by the International Harvester Company of Canada, Limited, from Chatham, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JANUARY, 1955

Railway Accidents	168	Killed	9	Injured	176
Level Crossing Accidents...	59	Killed	11	Injured	78
Total	227		20		254

	Killed	*Injured*
Passengers	1	31
Employees	4	132
Others	15	91
Total.....	20	254

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Nova Scotia

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 42-957.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-3835.

New Brunswick

1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile stalled on track and was struck by train. Licence: N.B. 303-890.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 52-400.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 25-950.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-20-056.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 68-537.
—	1	Automobile ran into side of train. Licence: N.B. 73-685.

Quebec

—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 141-488.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 220-017.
—	2	Auto truck ran into side of train. Licence: Que. F-18929.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 126-495.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-8152.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 12-581-C.
—	1	Auto truck ran into side of snowplow. Licence: Que. F-43693.
—	1	Automobile ran into side of train. Licence not given.
—	5	Automobile ran into side of train. Licence: Que. 263-245.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. F-67166.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-48416.

ONTARIO

Killed	*Injured*	
—	2	Automobile ran into side of train. Licence: Ont. 6995-Z.
1	—	Auto truck ran into side of train. Licence: Ont. 78810-B.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Auto truck ran into side of train. Licence: Ont. 57-231-C.
—	1	Automobile struck by engine backing over crossing. Licence: Ont. 7-T-44.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CB-280.
—	5	Automobile ran into side of train. Licence: Ont. CH-955.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 5466-L.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 73820-C.
—	1	Automobile ran into side of train. Licence: Ont. 8-H-894.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 5948-Y.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. U-7473.
—	1	Automobile struck by engine backing over crossing. Licence: Ont. S-9538.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. HY-707.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 341-442.
—	1	Auto truck struck by engine backing over crossing. Licence: Ont. 53-625-B.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AA-26.
—	1	Automobile struck by train backing over crossing. Licence: Ont. 8460.
—	3	Automobile ran into side of train. Licence: Ont. Z-6035.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9499-U.
—	1	Automobile ran into side of train. Licence: Ont. 696-040.
—	1	Auto truck ran into side of train. Licence: Ont. 24916-T.
—	2	Automobile ran into side of train. Licence: Ont. B-99624.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 416-Z-6.
—	1	Automobile ran into side of train. Licence: Ont. 58-T-24.
—	2	Automobile ran into side of train. Licence: Ont. 493-411.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 150-D-7.
—	2	Auto truck ran into side of train. Licence: Ont. 81629-C.

MANITOBA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. F-30168.

SASKATCHEWAN

1	—	Automobile ran into side of train. Licence: Sask. 60471.
—	1	Highway grader drove onto crossing in front of approaching train and was struck.

ALBERTA

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. NC-141.

BRITISH COLUMBIA

Killed	*Injured*	
—	2	Automobile ran into side of train. Licence not given.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. E-7188.
—	1	Automobile stalled on crossing and was struck by train. Licence: B.C. 4-730-J.
—	2	Auto truck ran into side of track motor car. Licence not given.
—	1	Auto truck ran into side of train. Licence: B.C. C-77-382.

Of the 59 accidents at highway crossings, 42 occurred at unprotected crossings, and 17 at protected crossings. Twenty-seven occurred after sunrise and thirty-two after sunset.

OTTAWA, Ontario, March 2, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85577 Feb. 15—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Canadian Freight Association under sections 3 and 8.

85578 Feb. 15—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

85579 Feb. 15—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under section 3.

85580 Feb. 15—Approving under the Maritime Freight Rates Act tolls published by the C.P.R. under section 8.

85581 Feb. 16—Authorizing the British Columbia Department of Public Works to construct a subway under the E. and N. Railway at mileage 5·34 Victoria Subdivision, near Victoria, British Columbia.

85582 Feb. 16—Authorizing the C.N.R. to cross Broad Street, Regina, Saskatchewan, with an industrial track along 4th Avenue.

85583 Feb. 16—Approving location of storage tanks, etc. of Canadian Petrofina Limited, near C.P.R. tracks at Maniwaki, Quebec.

85584 Feb. 16—Permitting the removal of slow order at C.N.R. crossing west of the station at Weston, Ontario.

85585 Feb. 16—Authorizing the Northern Alberta Railways Company to remove the station agent and appoint a caretaker at Picardville, Alberta.

85586 Feb. 16—Permitting the removal of slow order at C.P.R. crossing north of the station at Lourdes, Quebec.

85587 Feb. 16—Approving operation of C.P.R. trains over siding serving Dominion Oxygen Company Limited, Fort William, Ontario.

85588 Feb. 16—Approving operation of C.P.R. trains over siding serving Canadian Industries (1954) Limited, Regina, Saskatchewan.

85589 Feb. 16—Authorizing the C.N.R. to use the timber trestle over the Turtle River, mileage 10·9 Ste. Rose Subdivision, Manitoba.

85590 Feb. 16—Authorizing the Sask. Department of Highways and Transportation to re-align the highway where it crosses the C.N.R. at mileage 20·6 Margo Subdivision, Saskatchewan.

85591 Feb. 17—Permitting the removal of slow order at C.P.R. crossing and Montclair Street, Hull, Quebec.

85592 Feb. 17—Permitting the removal of slow order at C.P.R. crossing and Billings Avenue, Ottawa, Ontario.

85593 Feb. 17—Approving proposed location of storage tank, etc. of Canadian Propane Gas Distributors, near C.N.R. tracks at Parkhill, Ontario.

85594 Feb. 17—Authorizing C.P.R. to remove the agent and appoint a caretaker at High Bluff Station, Manitoba.

85595 Feb. 17—In the matter of application of Canada Steamship Lines Limited and The Northern Navigation Company Limited for a licence under section 10 of The Transport Act.

85596 Feb. 17—Approving Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 83 upon application of the Canadian Freight Association.

85597 Feb. 17—Approving under the Maritime Freight Rates Act tariff of tolls filed by the C.N.R. under section 3.

85598 Feb. 17—In the matter of application of Canada Steamship Lines Limited and the Northern Navigation Company Limited for a licence under section 10 of the Transport Act.

85599 Feb. 18—In the matter of the application of the Canadian Passenger Association, dated May 13, 1954, and of the New York Central Railroad Company dated June 23, 1954, for an Order rescinding Order No. 75234 dated September 22, 1950, *re* commutation fares.

85600 Feb. 17—Permitting the removal of slow order at C.N.R. crossing of Governor's Road (Highway No. 99), Province of Ontario.

85601 Feb. 17—Authorizing the C.P.R. to open for the carriage of traffic its Mitford Subdivision originating at mileage 27·2 Laggan Subdivision and terminating at mileage 8·94 Mitford Subdivision, Alberta.

85602 Feb. 17—Authorizing the C.N.R. to reconstruct the Westbank car ferry slip in the harbour on Okanagan Lake, British Columbia.

85603 Feb. 17—Authorizing the Ontario Department of Highways to construct an overhead bridge over the New York Central Railroad Company in the County of Essex, Ontario, at mileage 219·05 Main Line Subd.

85604 Feb. 17—In the matter of application of Charles Sanders for a licence under section 10 of the Transport Act.

85605 Feb. 18—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Regent Station, Manitoba.

85606 Feb. 18—In the matter of application of C.N.R. for approval of drawing showing changes in the automatic protection as installed at the crossing of the railway and the highway, being the first crossing north of the station at St. Gedeon, Quebec.

85607 Feb. 18—Permitting the removal of slow order at C.N.R. crossing west of the west switch in the City of Prince George, British Columbia.

85608 Feb. 18—Permitting the removal of slow order at C.N.R. crossing at mileage 2·60 Yarmouth Subdivision, Nova Scotia.

85609 Feb. 18—Permitting the removal of slow order at C.N.R. crossing of Merivale Road, west of Federal, Ontario.

85610 Feb. 18—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, at Delburne, Alberta.

85611 Feb. 18—In the matter of application of the Township of Peel, Ontario, for an Order rescinding Order No. 37462 and in the matter of the apportionment of the cost of maintenance of the gates at the crossing of the Grand Trunk Railway Company and the highway east of Clarkson Station, Ontario.

85612 Feb. 18—In the matter of application of Northwest Steamships Limited for a licence under section 10 of the Transport Act.

85613 Feb. 18—Authorizing the C.P.R. to reconstruct a portion of its bridge at mileage 83·4 Peterboro Subdivision, Ontario.

85614 Feb. 18—Authorizing the City of Winnipeg, Manitoba, to construct Grant Avenue across the C.N.R.

85615 Feb. 21—Authorizing the Montreal Transportation Commission to remove the interlocking plant and the diamonds installed at the crossing of its tracks and the Lachine Wharf Branch of the C.N.R. at Notre Dame Street, Lachine, Quebec.

85616 Feb. 21—Approving proposed location of storage tanks, etc. of the C.N.R., near their tracks at Longue Pointe, Quebec.

85617 Feb. 21—Dismissing the application of Christmas Coal Company requesting the Board to assess damages pursuant to section 39 of the Railway Act and in the matter of Order No. 80152 and Order No. 84225, *re* Kenilworth Avenue subway, Hamilton, Ontario.

85618 Feb. 21—Approving construction of the existing main track of the C.N.R. across the north and south road allowance between the southeast quarter of section 31 and the southeast quarter of section 32, Township 10, Range 12, E.P.M., at Elma, Manitoba.

85619 Feb. 21—Permitting the removal of slow order at C.P.R. crossing west of station at Bury, Quebec.

85620 Feb. 21—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the Dominion Atlantic Railway Company under section 8.

85621 Feb. 21—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under sections 3 and 8.

85622 Feb. 22—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Blanchard.

85623 Feb. 22—Approving supplement to traffic agreement between The Bell Telephone Company of Canada and The Corporation of the Township of Rochester.

85624 Feb. 22—Approving supplement to traffic agreement between The Bell Telephone Company of Canada and The Corporation of the Township of Sandwich South.

85625 Feb. 22—Approving supplement to traffic agreement between The Bell Telephone Company of Canada and The Wightman Telephone System.

85626 Feb. 22—Authorizing the C.N.R. to make revisions to the interlocker at the crossing of their railway and the railway of the C.P.R. at St. Boniface, Manitoba.

85627 Feb. 22—In the matter of application of Trans-Canada Pipe Lines Limited for an Order granting leave to the Applicant to deviate or change the general location of its proposed pipe line described in Order No. 84220 dated July 24, 1954, between Nipigon and North Bay, Ontario.

85628 Feb. 23—Approving supplement to Agreed Charge Tariff C.T.C. (AC) No. 76 upon application of the Canadian Freight Association.

85629 Feb. 23—Approving supplement to traffic agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Erin.

85630 Feb. 23—Permitting the removal of slow order at C.N.R. crossing of Maple Avenue at Ville St. Pierre, Quebec.

85631 Feb. 23—In the matter of accident at C.N.R. crossing of Davis Drive, Town of Newmarket, Ontario.

85632 Feb. 23—Approving operation of C.P.R. trains over private siding serving Rupert's Land Trading Company, Winnipeg, Manitoba.

85633 Feb. 23—Authorizing the C.P.R. to install stop signs at the crossing of its wye connection between mileage 172·92 Willingdon Subdivision and mileage 95·28 Leduc Subdivision of the C.N.R. Old Strathcona Subdivision, Alberta.

85634 Feb. 23—Authorizing the C.P.R. to use the bridge at mileage 57·81 Teeswater Subdivision, Ontario.

85635 Feb. 23—Approving Supplement No. 2 to Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525, to govern tariffs of tolls for freight traffic.

85636 Feb. 23—Authorizing the C.N.R. to discontinue certain mixed trains between Campbellton and Dalhousie, New Brunswick.

85637 Feb. 23—Authorizing the C.N.R. to reconstruct their bridge at mileage 15·4 Hagersville Subdivision, Ontario.

85638 Feb. 24—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Manyberries, Alberta.

85639 Feb. 27—Approving proposed location of storage tank, etc. of the Canadian Vegetable Oil Processing Limited, near C.N.R. tracks, at Hamilton, Ontario.

85640 Feb. 24—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85641 Feb. 24—Approving operation of C.P.R. trains over private siding serving Western Plywood Company Limited, Vancouver, British Columbia.

85642 Feb. 24—Permitting the removal of slow order of C.N.R. crossing of Vertu Road, Town of St. Laurent, Quebec.

85643 Feb. 24—Authorizing the C.N.R. to discontinue certain passenger and mixed train services in Pictou County, Nova Scotia.

85644 Feb. 24—Permitting the removal of slow order at C.N.R. crossing north of station at Holland Landing, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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In the matter of Orders Nos. 80152 and 82245 re Kenilworth Avenue subway, Hamilton, Ontario,

AND

In the matter of the application of Christmas Coal Company requesting the Board to assess damages pursuant to Section 39 of the Railway Act:

File: 27802·29

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Hamilton, Ontario, on December 10, 1954.

Appearances:

F. S. WEATHERSTON, for Christmas Coal Company.
J. T. LEWINGTON, for the City of Hamilton.
H. SOULE, for Toronto, Hamilton & Buffalo Railway Company.

JUDGMENT

WARDROPE, Assistant Chief Commissioner:

This is an application, under Section 39 of the Railway Act, by the Christmas Coal Company, hereinafter referred to as the "Coal Company", requesting the Board to assess damages or fix compensation following termination of a lease between it and the Toronto, Hamilton and Buffalo Railway Company, hereinafter referred to as the "Railway", caused by the construction of a subway at Kenilworth Avenue in the City of Hamilton. The matter was set down for hearing at Hamilton and the Notice of Hearing advised the parties as follows:

> "At this hearing the parties will be heard in respect of the question whether or not Christmas Coal Company is entitled to any damages or compensation under Section 39 of the Railway Act, reserving for subsequent hearing, at a time and place to be fixed later, the matter of the amount of damages or compensation if such entitlement is established."

Upon the application of the City of Hamilton, Board's Order No. 80152 dated 10th November, 1952 issued, directing the Railway to construct a subway under its tracks where the proposed extension of Kenilworth Avenue connects with the proposed east-end mountain access road in the City of Hamilton. This Order reserved for further consideration the question of the apportionment of costs.

Following an agreement reached between the City and the Railway whereby the latter would contribute $75,000 in full of its share of the undertaking, Order No. 82245 of the 25th September, 1953 issued. This Order authorized a grant from the Railway Grade Crossing Fund of $150,000, and after a payment by the Railway of $75,000, the balance of the cost of construction was placed upon the City. The Order also provided that, upon completion of the subway, the Railway would close, within the limits of its right-of-way, the public crossings at Kenilworth Drive and at Ottawa Street in the City of Hamilton.

The construction of this subway required the use of a portion of certain lands owned by the Railway and leased by it to the Coal Company. The use of the lands for this purpose, i.e., the subway, made it impossible for the Coal Company to continue to carry on its business at this point.

The lease under which the Coal Company carried on its business was a year-to-year lease dated 11th August, 1944, and terminable at any time by either party after one year, upon giving sixty days notice in writing.

On the 14th January, 1953 the City Engineer wrote the Railway in part as follows:

> "Will you kindly arrange with the Christmas Coal Company, tenants of the property opposite Kenilworth Avenue to be extended, to vacate the property not later than April 1st next. I am informed that they have a lease, subject to 60 days' notice to vacate. This notice should be given before the 1st of February, next.
>
> We are anxious to get on with this job and hope that you will be able to call for tenders by March 1st, or as soon after that as possible."

By Notice to Quit, dated 27th January, 1953, the Railway advised the Coal Company that the lease would be terminated as of April 1, 1953.

The business relationship between the Railway and the Coal Company had always been mutually satisfactory and advantageous. The Railway's position was that but for the construction of the subway it foresaw no apparent cause to terminate the lease. It may be said here that the Coal Company is making no claim against the Railway. Its claim is against the City on the ground that but for its intervention in the contractual rights between the Railway and the Coal Company, the Railway would not have given the Notice to Quit and the Coal Company would have continued to carry on its business.

Following the hearing, Mr. Weatherston, Counsel for the Coal Company, furnished the Board with a summary of his argument at the hearing and therein stated the claim of the Coal Company to be as follows:

> "At the date of the Board's Order No. 80152, 10 November 1952 and also when the City Engineer wrote to the Railway Company on 14 January 1953, Christmas Coal Company had a leasehold estate in the land. If that estate had been expropriated, the City would have had to pay its value, together with incidental damages for injurious affectation of business, etc. Here the City did not expropriate the estate of Christmas Coal Company, but they did cause it to be brought to an end by interfering with the contractual relations between Christmas Coal Company and the Railway Company.

> The claim of Christmas Coal Company, is therefore, not for the value of their leasehold estate, which was properly determined, but for the value of the 'possibility or probability' that their lease would not be determined. That 'possibility or probability' was lost when the City applied for an Order authorizing construction of the subway, and the City Engineer subsequently requested that Notice to Quit be given. At that time, it is submitted, Christmas Coal Company had a sufficient estate in the land to entitle them to damages for loss of that 'possibility or probability'."

Mr. Weatherston also submitted that Section 39 of the Railway Act is sufficiently broad in its terms to authorize the Board to order payment of compensation to the Coal Company as a "term or condition" of the approval of the undertaking, and that the authority of the Board to make such an order is not dependent upon the general law of the Province. And he emphasized the Board's own judgment in the case of *Robin Hood Flour Mills Limited* v. *Calgary,* 68 C.R.C. 344, as authority for the proposition that the Board may order compensation to be paid where it is not otherwise payable by the "compulsory taking" sections of the Railway Act, and land has not actually been expropriated.

In the Robin Hood case, the Board had, by order, authorized the City of Calgary to construct a subway and reserved for further consideration the question of the apportionment of costs. Subsequently, Robin Hood Flour Mills, which was the registered owner of certain property abutting on the proposed subway, requested the Board to amend its order under the provisions of Section 39 of the Railway Act in particular, in such manner as to grant leave to apply to the Board for compensation for any loss or damage it might suffer. The Board found that in Section 39 this power was given to the Board and made an order as asked, accordingly. Quite obviously in this case, the Robin Hood Flour Mills being legal owners of the property in question which might be jeopardized by the construction of the subway, was a party interested or affected by the Board's construction order. Section 39 (subsection 1) of the Railway Act reads as follows:

> "When the Board, in the exercise of any power vested in it, in and by any order directs or permits any structure, appliances equipment, works renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may, except as otherwise expressly provided, order by what company, municipality or person, interested or affected by such order, as the case may be, and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision, the same shall be provided, constructed, reconstructed, altered, installed, operated, used and maintained."

I think that the word "compensation" under Section 39 is not wider than the same word in Section 166 which requires the Railway Company to make full compensation to all persons interested for all damage by them sustained by reason of the exercise of the Railway's powers. If this is so, then the decisions on compensation where railways compulsorily take lands are pertinent.

If there is a wide discretion implied in Section 39 which the Board may exercise in the interests of equity and reasonableness, as Mr. Weatherston suggested, I think it should not be exercised less prudently than by competent courts which have adjudicated upon similar matters.

The Coal Company's claim is based on the assumption that it is entitled to compensation as a tenant whose tenancy would "possibly or probably" not have been interfered with were it not for the Board's order at the request of the City.

"Probability" of a renewal of lease to be taken into account in fixing compensation has been judicially considered. In *C.P.R.* v. *Brown Milling Company*, 18 O.L.R., p. 85, Riddell, J. at p. 92 said, in effect, that where a person is in possession under a lease he is entitled to claim the probability of being granted a further lease and that in estimating the compensation the probability of future advantage and not alone the strict legal and equitable rights should be considered. However, on appeal to the Ontario Court of Appeal and to the Supreme Court of Canada, 42 Supreme Court Reports, p. 600, compensation was denied on the grounds that the claimant had no right to renewal of the lease.

See also *Canada Steamship Lines Limited* v. *Toronto Terminals Railway Company*, 36 C.R.C. 301, at p. 328, where Grant, J.A., said:

> "As a matter of fact, there was no probability of any further renewal being granted, even if that could be relied upon as an element in fixing compensation, which, in my opinion, it could not. The mere chance or expectancy of renewal of a lease, without any right in law to insist upon it, is not a ground for compensation."

And on the same page:

> "It has further been held that promoters may acquire the freehold and then give the necessary notice to quit to the lessee, thereby terminating the tenancy, and that under such circumstances, no compensation can be claimed by the lessee. (Syers v. Metrop. Board of Works (1877), 36 L.T., N.S. 277, a decision of Jessell, M.R., affirmed by the Court of Appeal)."

While the facts in these cases cannot be said to be on all fours with the facts presently before us, nevertheless these decisions do not appear to accept "probability", even strong probability, as a basis for compensation. If this is correct, then I think it follows that the Coal Company's lease having been legally terminated, the Company cannot be considered as a party interested or affected by the Board's order. This is quite a different situation to that in the Robin Hood Flour Mills case, where this latter Company actually owned the land.

However, I am not overlooking the case of in *re Gibson and Toronto* (1913, 28 O.L.R., p. 20), which was strongly relied upon by Mr. Weatherston. But a reading of this case, which by the way does not involve railway lands, shows that it deals not so much with the element of "possibility or probability" but on the evidence, more that of "certainty". Here there was apparently a design by the City of Toronto to attempt to limit the amount of compensation it might have to pay on certain contemplated expropriations. The opening language of the judgment of MacLaren, J.A. (p. 22) is explanatory and is as follows:

> "This is an appeal by the owner of a certain lot on the north side of St. Clair avenue, in Toronto, from the award of the Official Arbitrator as to the compensation to which the owner is entitled for the taking of the southerly seventeen feet of his lot for the widening of St. Clair avenue, by a by-law passed on the 23rd June, 1911.
>
> The owner claimed that the arbitrator should take into account the damage suffered by him by being deprived of the advantage of erecting commercial buildings on these seventeen feet in connection with the adjoining land south of the dwelling-house erected on the lot in question.
>
> The arbitrator held that he was precluded from taking this into consideration by the fact that the city council had, on the 18th August, 1910, passed a by-law declaring that part of St. Clair avenue to be a residential street, and prohibiting the erection of any building within seventeen feet of the north or south line of the street.

In the reasons for his award he says: 'The real reason for the passing of this by-law is found in the evidence of Mr. Forman (the City Assessment Commissioner), given in these proceedings, viz., that, it being the intention of the city at a later date to expropriate seventeen feet for the purpose of widening St. Clair avenue, it was deemed expedient to prevent buildings in the meantime being placed on this seventeen feet, thereby increasing the amount of compensation which would have to be paid to the owners when their land was taken under the expropriating by-law. There is no doubt that the by-law must be repealed and will be.'

As a matter of fact the by-law was repealed on the 24th June, 1912.

The arbitrator bases his conclusion, as to the above effect of this by-law, upon a dictum of Meredith, C.J., in a case of Toronto R.W. Co. v. City of Toronto, 13 O.L.R. 532. I am unable, however, to find anything in this case to justify the decision arrived at by the arbitrator.

On the other hand, it was the duty of the arbitrator to have taken into account the probability, or, as he puts it, the certainty, of the by-law being repealed in the near future.

Even apart from what he states was the reason for its being passed, the evidence shews that, from the rapidly changing nature of that part of the city, it was only a question of a short time when that part of St. Clair avenue would cease to be a purely residential neighbourhood, and such a by-law would require to be amended or repealed, and this is a matter which, the authorities shew, the arbitrator should take into account. Even when it is contingent or uncertain, it is an element which he should take into his consideration, or, as put in one of the cases, when they are 'reasonably fair contingencies'. For illustration of these rules, see Hillcoat v. Archbishop of Canterbury (1850), 10 C.B. 327; In re City and South London Railway and St. Mary Woolnoth, (1903) 2 K.B. 728, (1905) A.C. 1; In re Countess of Ossalinsky and Manchester Corporation, approved in In re Lucas and Chesterfield Gas and Water Board (1909) 1 K.B. 16; Browne and Allan's Law of Compensation, 2nd ed., p. 102; Cripps on Compensation, 5th ed., p. 117.

It would indeed be a gross abuse of the powers conferred upon the city corporation, if it should be able to use such powers to depreciate the value of property which it was about to acquire".

I do not think, under the above facts and circumstances, that this case can be of material assistance to the applicant.

Whether or not as a matter of fact the Railway, but for the City's letter of January 14, 1953, might have refrained from giving the Coal Company Notice to Quit, is a matter which I think should be examined in the light of the evidence before us and the circumstances of the case. As previously mentioned, the Railway's position was that but for the construction of the subway it foresaw no apparent cause to terminate the lease and perhaps this position should be examined and clarified.

It would have been a different matter if the Railway had completely maintained that but for the City's letter of January 14, 1953 it foresaw no apparent reason to terminate the lease because such a position would have supported the Coal Company's contention that the cause of termination was the tortious interference by the City with the contractual relations between the Coal Company and the Railway. At the hearing, in cross-examination Mr. Weatherston put the following question to Mr. Back, Chief Engineer of the Railway:

"Q. And would the Railway Company have given notice to the Christmas Coal Company if it had not been for the request of the City of Hamilton?—A. No, sir."

However, against this answer of the Railway witness we should look at the language of a letter dated July 14, 1954 from the Solicitors for the Railway to the Secretary of the Board, a copy of which was filed as part of Exhibit 1 by Mr. Weatherston at the hearing. The letter, after reciting the terms of the lease, the application by the City to the Board for the subway, and Board's Order No. 80152, then referred to the letter of January 14, 1953 from the City Engineer to the Railway. The next two paragraphs and the final paragraph are as follows:

> "In view of Board Order No. 80152, the Railway had no alternative other than to give Notice to Quit to Christmas Coal Co., said Notice to Quit being effective 1 April, 1953. It is our understanding that Christmas Coal Co. actually went out business on or about 4 May, 1953. The Railway felt very badly about having to give this notice to Christmas Coal Co., as this concern had been a good tenant of the Railway for a considerable period of time, and business had been carried on between the parties on a friendly basis. In 1951 the Railway had handled 91 cars for the tenant, upon which the Railway received the road haul; in 1952, 117 cars, and from January, 1953, to May 4, 1953, 29 cars.
>
> From the foregoing it is quite clear that the Railway was legally entitled to give notice to the tenant. However, it should be borne in mind by the Board that the Railway did not desire to give such notice. By giving such notice, not only did the Railway lose a good tenant, but also the revenue from the business which the tenant had carried on with the Railway. The Railway would not have given such notice had it not been compelled to do so by reason of the circumstances outlined above.
>
>
>
> In summation, with respect, we would, therefore, submit that this Company was legally entitled to give the notice in question, but would not have given the same had it not been for the construction of the proposed subway. Furthermore, our contribution to the project was made on the basis that the sum of $75,000.00 would be all that we would be required to pay."

The above language leads one to infer that once the Board's order directing the construction of the subway had issued the Railway would have in any event given the Coal Company Notice to Quit and notwithstanding Mr. Back's understanding of the matter I think the inference is clear.

There is, however, a final factor which bears upon the question of possibility or probability of the lease in question not being terminated except for the intervention of the City.

The construction of this subway in lieu of the possibility of a level crossing at this point, plus the contemplated closing of the level crossings at Kenilworth Drive and at Ottawa Street, unquestionably would be of some considerable benefit to the Railway. This being so, the Railway itself would have an interest in invoking the provisions of the lease in question whereby it was terminated.

There was an uncertainty of tenure of which the Coal Company must have been aware. The action of the City was only one hazard such a tenure was exposed to and in view of the developments in that part of the City of Hamilton, perhaps not too remote a one to contemplate.

Under all the circumstances, I must come to the conclusion, but reluctantly, it has not been established that the Coal Company is entitled to any damages or compensation under Section 39 of the Railway Act.

The application will be dismissed.

HUGH WARDROPE.

February 21, 1955.

I concur:

FRANK M. MACPHERSON.

I concur:

H. B. CHASE.

ORDER No. 85617

In the matter of Order No. 80152, dated November 10, 1952, and No. 82245, dated September 25, 1953, re Kenilworth Avenue subway, Hamilton, Ontario,

And in the matter of the application of Christmas Coal Company requesting the Board to assess damages pursuant to Section 39 of the Railway Act:

File No. 27802·29

MONDAY, the 21st day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Hamilton, Province of Ontario, on December 10, 1954, in the presence of Counsel for Christmas Coal Company, the City of Hamilton and the Toronto, Hamilton & Buffalo Railway Company—

It is ordered that the said application be, and it is hereby, dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORAL JUDGMENT

Delivered at conclusion of hearing at Stellarton, N.S., on February 8, 1955

In the matter of the application of the Canadian National Railways under sections 33, 43, 315 and all other relevant sections of the Railway Act for an Order authorizing them to discontinue certain passenger train services on their lines in the County of Pictou, Province of Nova Scotia, and to substitute therefor suitable and adequate service in the area by highway:

File No. 27563.458

SYLVESTRE, A., Deputy Chief Commissioner:

We are able to give our decision in this application without waiting to go back to Ottawa and we think that it will be in the interest of all concerned for us to make our decision known now.

Before we set this case down for hearing here at Stellarton we had our own staff conduct an investigation and we have the benefit of our inspector's report as well as the submissions filed with the Board by interested parties and the evidence and submissions presented at this hearing.

In cases such as this—and we have had many such cases—we endeavour to appraise the situation in all respects, and in particular we ascertain what transportation facilities exist in the area concerned, not only the railway facilities but other transportation facilities as well, and we look carefully to see what facilities the public will have if we permit the railway to discontinue its train services as requested. We also look at the expense of operating the trains concerned, and the extent to which the public patronize the train services, and we weigh the savings the railway company will make if the application is granted against such loss and inconvenience as the public may suffer as a result of the change.

The proposal in the present case is to have substitute services provided by means of bus and highway transport. We do not say that the change over will not result in any inconvenience or loss, for it probably will cause a measure of loss and inconvenience to some persons—however we consider that on the whole it will meet the transportation needs of the area equally as well as, if not better than, the present railway services do.

And certainly, in our opinion, the money savings to the railway company greatly outweigh any loss or inconvenience that we can see to the public.

We will therefore grant the application and issue an order accordingly.

However, we will add this—that we have power to look at the results after the substitute services have had a fair trial, and if it should appear to us, upon complaint and investigation, that the public interest requires the re-establishment of any of the railway services concerned, we have the necessary authority to require the railway company to re-establish them.

This application has been before us since July 30th, 1953, and we do think that the railway has made out a good case and that we should not deny the opportunity to make very considerable money savings so long as the transportation needs of the area are reasonably looked after by bus and highway services.

Concurred in by Mr. Commissioner H. B. Chase, C.B.E.

ORDER No. 85643

In the matter of the application of Canadian National Railways for an Order authorizing the discontinuance of certain passenger services in Pictou County, Nova Scotia:

File No. 27563.458

THURSDAY, the 24th day of February, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

This application having been heard at Stellarton, N.S., on February 8 and 9, 1955, by the Deputy Chief Commissioner and Commissioner H. B. Chase, C.B.E., and oral judgment having been given granting the application—

It is ordered that Canadian National Railways be, and they are hereby authorized to discontinue the following passenger and mixed train services:

(*a*) Passenger trains 360 and 367, daily except Sunday, between New Glasgow and Pictou;

(*b*) Mixed trains 262, 263, 264 and 265, daily except Sunday between New Glasgow and Pictou;

(*c*) Passenger trains 335, 336, 337 and 338, daily except Sunday, and 339 and 340, Tuesday and Saturday, between New Glasgow and Sunny Brae;

(*d*) Passenger trains 123, 128, 129, 341 and 342, daily except Sunday, and 130 and 131, Saturday only, between New Glasgow and Hopewell;

(*e*) Passenger trains 120 and 125, daily except Sunday between Stellarton and Hopewell;

(*f*) Passenger trains 119 and 126, daily except Sunday between Hopewell and Pictou Landing;

(*g*) Passenger train 122, daily except Sunday, between New Glasgow and Pictou Landing;

(*h*) Passenger train 121, daily except Sunday, between Stellarton and Pictou Landing;

(*i*) Passenger trains 336 and 337 daily except Sunday between Hopewell and Sunny Brae;

(*j*) Passenger train 124, daily except Sunday, between New Glasgow and Stellarton.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORAL JUDGMENT

Delivered at conclusion of hearing at Halifax, N.S., on February 10, 1955

In the matter of the proposal of the Canadian National Railways to cancel mixed trains 283 and 284 between Halifax and Liverpool, N.S.; to convert present passenger trains 87 and 88 to mixed operation to handle the through carload traffic of mixed trains 283 and 284; and to handle the express, mail and passenger traffic of trains 283 and 284 on the proposed mixed trains and trains 285 and 286.

File No. 27563.26.1

SYLVESTRE, A., Deputy Chief Commissioner:

Gentlemen, my colleague and I have discussed this matter with the object of endeavouring to reach a decision.

This case does not involve the complete discontinuance of passenger handling facilities on this line but simply a rearrangement of the train service, involving some curtailment in the present service, with considerable saving to the Railway Company.

As you have already heard, such changes do not require the Board's sanction. However, upon receipt of complaints from the railway patrons affected, in September 1954 the Board directed the Canadian National Railways to continue the present service pending further investigation.

In the meantime, a thorough review of the situation has been made by the Board's Inspectors and we have since had an opportunity of carefully reviewing the Inspector's report. In addition to this we have also given consideration to the Railway Company's position and the effect of the proposed change on the railway patrons in the area.

The Board deals with many similar cases and there is no doubt but that curtailments of train service of this nature result in some inconvenience. Our responsibility is to weigh this against the economies which would accrue to the Railways.

It is evident, in this case, that the area is well served by a competing bus service which operates over a good paved highway. This highway parallels the railway throughout most of the area. Undoubtedly the competing bus and truck service and the use of private autos is proving more convenient to the majority of the people in the area and this no doubt accounts for the depleted railway traffic.

The proposed mixed train service provides for a train in each direction daily except Sunday between Yarmouth and Halifax.

Upon giving due consideration to the submissions filed with the Board, together with evidence given here today we are of the opinion that the proposed railway service should be adequate to take care of the present volume of traffic which the Railway company is handling. Consequently, on the strength of the evidence under review, we are unable to find sufficient justification to warrant the Board further delaying the implementation of the Railway Company's proposal. The Board's request for delay is therefore cancelled forthwith.

I might say, however, that we fully recognize the necessity of the proposed mixed trains maintaining a reasonable degree of on time performance. The Railway officials have given assurance that every effort will be made to operate these trains on time. We appreciate the apprehension of the Railway

patrons on this point and in conclusion we would like to assure those of you who have expressed concern in this connection that the Board has the power to review the results after the new service has had a fair trial.

If it should appear upon complaint and investigation that the modified Train Service is proving inadequate we have the necessary authority to require the Railway Company to improve or augment the service.

Concurred in by Mr. Commissioner H. B. Chase, C.B.E.

ORAL JUDGMENT

Delivered at conclusion of hearing at Dalhousie, N.B., on February 17, 1955.

In the matter of the application of the Canadian National Railways under sections 33, 34, 315 and all other relevant sections of the Railway Act for an Order authorizing the discontinuance of the present railway passenger service between Campbellton and Dalhousie, N.B., and the substitution therefor of passenger service by means of buses on the highways serving both Campbellton, Dalhousie and intermediate points.

File No. 27563.266

SYLVESTRE, A., Deputy Chief Commissioner:

Gentlemen, the matter of Train Service between Campbellton and Dalhousie, has been before the Board since 1948 and we have had a very good opportunity of reviewing the case from all aspects. In view of this I have discussed the matter with my colleague to see if we could now resolve the matter and make known our decision before returning to Ottawa.

We understand that the purpose of this service was to provide transportation facilities between Campbellton and Dalhousie not only for the convenience of the local populace but also to provide connections with main line trains. No doubt the service was well patronized at one time but like a great many other branch line services the patronage has diminished to the point where the Railway Company feels they should not be required to continue providing the passenger facilities on these trains at a financial loss.

Consequently, an application was filed with the Board on August 2nd, 1948, requesting permission to discontinue the passenger facilities on these trains. A Board hearing was held in Dalhousie on May 27th, 1949, but no decision was rendered at that time.

However, in view of the continued decline in the patronage of the passenger facilities the Canadian National Railways again filed application for permission to be relieved of this service. The second application was filed with the Board on July 26th, 1954. In the meantime, a further review has been made of the situation by the Board's District Inspectors at Moncton in order to provide the Board with up-to-date information as to the service provided by the passenger equipment on these trains. I might say that this investigation has now been completed and the Board has carefully considered the Inspectors' Reports and the submission filed by all concerned.

You will appreciate that the Board deals with many applications of this nature and it is necessary for us to weigh the inconvenience involved in the discontinuance of the service against the losses suffered by the Railway Company in providing the service.

The Board must also give careful consideration to the alternate forms of transportation available in the area. It is noted, in this connection, that a good highway parallels fairly closely the present railway line and undoubtedly the convenience of this excellent highway has diverted the bulk of the railway passenger business to the private automobile and other competing forms of commercial service.

It is noted in this case that the Railway Company proposes to enter into an agreement with a private Bus Company to handle passenger traffic between Dalhousie, Campbellton and intermediate points. This arrangement provides for honouring railway tickets on the Busline in the area referred to and it is significant to note that this will provide for a Sunday passenger service between Campbellton and Dalhousie although the present mixed service is daily except Sunday.

The Railway Company is also prepared to offer an adequate highway service between Campbellton and Dalhousie for handling express and baggage as well as mail if the contract is retained. Their application also indicates that they are prepared to provide a stand-by mixed service to take care of emergencies which might disrupt highway traffic between Campbellton and Dalhousie for a lengthy period. Since the Railway would also be seriously affected by such a tie-up on the highway it seems reasonable to assume that the Company could make use of the stand-by service in such emergencies and the officers of the Company have defined the period as a period of 24 hours or more.

There appears to be no doubt that the public is gradually losing interest in this mixed service. This is confirmed by the following comparison of the passengers handled on these trains in the year 1953 compared with the year 1948 when the previous application was heard.

	1948		*1953*	
Train	*Summer*	*Winter*	*Summer*	*Winter*
#221	4.5	2.7	1.0	1.0
222	4.4	2.2	1.9	1.9
223	5.7	5.7	2.5	3.4
224	1.4	1.2	0.3	0.3
225	2.2	1.1	0.6	0.8
226	5.8	3.6	0.5	0.6
227	5.2	2.8	1.1	1.6
228	6.6	5.2	1.4	1.1

Under the circumstances we are of the opinion that the Railway Company has made a good case and it seems evident that the local area will be better served both from a passenger as well as from a freight handling standpoint under the proposed plan than they are at present. We therefore grant the application and an Order will go accordingly.

We might remind you also that if the proposed service does not prove satisfactory to the Railway patrons the Board has the power to further review the matter on complaint from those affected with the object of ensuring that the service is adequate.

Concurred in by Mr. Commissioner H. B. Chase, C.B.E.

ORDER No. 85636

In the matter of the application of the Canadian National Railway Company for an Order authorizing the discontinuance of its railway passenger service between Campbellton and Dalhousie, New Brunswick:

File No. 27563.266

WEDNESDAY, the 23rd day of February, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

This application having been heard at Dalhousie, N.B., on February 17th, 1955, by the Deputy Chief Commissioner and Commissioner H. B. Chase, C.B.E., and oral judgment having been given granting the application—

It is ordered that Canadian National Railway Company be, and it is hereby authorized to discontinue its mixed trains 221, 222, 223, 224, 225, 226, 227 and 228 between Campbellton and Dalhousie, New Brunswick.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORAL JUDGMENT

Delivered at conclusion of hearing at Galt, Ontario, on March 14, 1955

In the matter of the application of the Lake Erie & Northern Railway Company and the Grand River Railway Company pursuant to section 33 and any and all other relevant sections of the Railway Act for an Order approving the discontinuance of passenger train service, effective April 24, 1955, upon and over the Lake Erie and Northern Railway line from Galt to Port Dover, Ontario, and the Grand River Railway line from Galt to Waterloo, Ontario, and a branch line from Preston to Hespeler, Ontario.

File No. 27563.426

SYLVESTRE, A., Deputy Chief Commissioner:

Gentlemen, the matter of passenger service on the Lake Erie and Northern Railway Company and the Grand River Railway Company first came before the Board in the year 1950. The application failed to succeed at that time principally because of the lack of any properly organized alternate form of transportation to provide service to the individuals who were patronizing the existing trains of the applicant Companies.

You will readily understand however, that since this is the second hearing dealing with the same question within a relatively short period of time, the Board has had a very good opportunity of becoming thoroughly familiar with the background of this situation. In view of this I have discussed the matter with my colleague to see if we could now resolve the matter and make known our decision before returning to Ottawa.

It seems evident from the application that the two Railway Companies involved, both subsidiary lines of the Canadian Pacific Railway Company, at one time enjoyed a fairly substantial patronage on their passenger trains but

the rapid improvement of parelleling highways in the area has had a very marked effect on the patronage of this service. No doubt this decline in patronage prompted the application which was made to the Board in 1950.

It is not my desire to burden you with a comparison of the situation which existed at that time and the conditions surrounding the present application, except to point out that there has been a steady and sustained decrease in the number of passengers handled on the two Railway lines. It is also apparent that the Railway management has during the intervening years since the 1950 judgment endeavoured to carry out the direction contained in the concluding paragraph of the judgment issued following the previous hearing. I would like to quote this paragraph in order to refresh your memory on the direction given the applicant at that time, and also to remind you of the main reason for the application being declined:

> "Having regard to all the circumstances and everything that was placed before us, I am of the opinion that if the application were granted the public would be seriously inconvenienced. The application will therefore be dismissed, reserving to the Railways, however, the right to rearrange their passenger schedules, retaining the afore-mentioned so-called commuter service and abandoning such schedules as can best be discontinued without undue inconvenience to the public, subject at all times to protest and, if necessary, investigation and decision of the Board."

It is evident that the Railway management has taken advantage of the direction given by the Board to reduce the service commensurate with the depleted patronage. We are told, however, that these efforts have failed to reduce the out of pocket losses to any appreciable extent and hence the reason for renewing their application to discontinue this passenger service.

You will appreciate that we deal with many similar applications and undoubtedly changes of this kind result in a certain amount of inconvenience to some people. The Board has to weigh these inconveniences against the losses suffered by the Railway Company and at the same time consideration has to be given to the alternate forms of transportation available to the travelling public in the area.

It is noted in this case that a good highway parallels the Railway line and one of the conditions of the application is that the applicant will provide an alternate bus service to replace the present rail passenger service and express and baggage will also be handled by highway. It is significant to note that in some respects the communities will be better served under the Railway Company's proposal than they are at present.

Under the circumstances we are of the opinion that the Applicant has made a good case and in view of the conditions outlined in the application, we are prepared to grant the application and an order will go accordingly.

We might remind you, however, that if the proposed service does not prove satisfactory the Board has the power to further review the situation on complaint from those affected.

Concurred in by Mr. Commissioner H. B. Chase, C.B.E.

ORDER No. 85853

In the matter of the application of the Lake Erie & Northern Railway Company and the Grand River Railway Company pursuant to section 33 and any and all other relevant sections of the Railway Act for an Order approving the discontinuance of passenger train service, effective April 24, 1955, upon and over the Lake Erie and Northern Railway line from Galt to Port Dover, Ontario, and the Grand River Railway line from Galt to Waterloo, Ontario, and a branch line from Preston to Hespeler, Ontario:

File No. 27563.426

THURSDAY, the 24th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board at Galt, Ontario, on March 14, 1955, in the presence of counsel for the Applicants and for the Town of Hespeler, the Town of Port Dover and the Town of Preston, an oral judgment granting the application having been given at the conclusion of the sittings—

It is ordered that approval be, and it is hereby, given to the discontinuance by the said companies of passenger train service upon and over their lines, effective April 24, 1955, as applied for.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 807

In the matter of approval of Supplement No. 3 to the Board of Transport Commissioners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717·B

TUESDAY, the 1st day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the said Supplement No. 3 to the Board of Transport Commissioners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, on file with the Board under file No. 1717·B, be, and it is hereby authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That this General Order No. 807 shall come into force on the 30th day of June, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner,

GENERAL ORDER No. 808

in the matter of regulations respecting the installation and changes to interlocking systems:

File No. 521

TUESDAY, the 1st day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered

1. That the following regulations respecting the installation and changes to interlocking systems be, and they are hereby prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada.

2. That the said regulations apply to new installations only and do not apply to existing installations made prior to the date of this Order.

3. That relief from these requirements may be granted upon adequate showing by the railway.

4. That the said regulations shall become effective as and from the date of this Order, and that General Order No. 547, dated the 2nd day of December, 1935, General Order No. 572, dated the 14th day of April, 1938, and General Order No. 688, dated the 21st day of June, 1946, be, and they are hereby rescinded.

REGULATIONS IN RESPECT TO INSTALLATION AND CHANGES TO INTERLOCKING SYSTEMS

1. Without the approval of the Board, no company shall install, or make any major change to, interlocking systems.

2. With the application for such approval the company shall send to the Secretary of the Board three sets of a combined plan and profile, showing the complete layout of the interlocking. The plan shall show the location of the crossing, junction or movable bridge, and the position of all tracks and junctions. The plan and profile shall be drawn to the following minimum scales:

Plan — 400 feet to an inch.
Profile—400 feet to an inch horizontal, 20 feet to an inch vertical.

When possible railway companies concerned shall agree on the plan before submitting it to the Board.

The first set is for approval by, and filing with, the Board. The second and third sets are for certification and return to the Applicant, duly certified as copies of the original plan and profile.

3. Definitions and symbols approved by the Signal Section of American Association of Railroads shall apply for the purposes of these requirements.

4. As soon as any interlocking installation is completed it may be placed in operation, and an application made to the Board for inspection. At movable bridges or railway crossings until an application for inspection is made and an Order received from the Board authorizing operation, all trains shall stop as required by the Railway Act.

5. Rail level crossings, junctions, and movable bridges shall be protected by interlocking signals or Stop signs. Derails may be required.

6. When railways bring all trains to a stop before making a movement over a railway crossing or movable bridge the protection may be modified, but at all such crossings or movable bridges not protected by interlocking appliances a Stop sign shall be erected at a point not more than 500 feet each way from the nearest frog of crossing, or each way from the nearest end of movable bridge; and all trains must be brought to a full stop at the Stop sign and shall not thereafter proceed until a proper signal has been given for that purpose.

7. When any movable bridge is secured for the period of closed navigation in the closed position with the locking mechanism so fixed as positively to prevent the displacement of the span in either the horizontal or vertical plane, engines and trains may pass over such bridge without stopping.

8. Over a movable bridge secured as aforesaid, unless otherwise provided by order of the Board for any specific bridge, the speed of a passenger train must not exceed twenty-five miles per hour and of any other train fifteen miles per hour until the entire train has passed the bridge.

9. Before the bridge is made movable after being secured in a closed position for the period of closed navigation and before the fixing device used for securing the bridge is removed all trains operating on the subdivision on which the bridge is situated shall be notified by Train Order and Bulletin that the bridge is again being made movable and that the interlocking plant or other protection is being restored, and the Train Order and Bulletin shall state the date and time when the change will be made effective.

10. At single track movable bridges derails when required shall be located not less than 500 feet each way from the ends of the movable bridge.

11. At multiple track movable bridges derails when required shall be located with the normal direction of traffic, not less than 500 feet, against the normal direction of traffic, not less than 300 feet, from the ends of the movable bridge.

12. Semaphore arms that govern train movements shall be displayed to the right of the mast as seen from an approaching train.

13. Interlocking signals shall be provided to govern train movements into and through interlocking limits.

14. Interlocking signals used to protect movable bridges shall be located not less than 500 feet from the nearest end of the movable bridge, except that interlocking signals used to govern movements against current of traffic on multiple tracks shall not be less than three hundred feet from the nearest end of the movable bridge.

15. Interlocking signals shall be power operated or pipe connected.

16. Signals preferably shall be placed over or to the right of the track they govern. Exception may be made on railways operated with the current of traffic to the left.

17. A power operated or inoperative approach signal shall be provided on the main track to govern the approach with the current of traffic to all interlocking signals. Exception may be made where the interlocking signal is the first signal encountered when leaving yard or station and authorized speed approaching such signal is not more than slow speed.

18. Aspects shall be shown by position of semaphore blades, colour of lights, postion of lights, flashing of lights, or any combination thereof. They may be qualified by marker plate, marker light, number plate, shape or colour of semaphore blades, or any combination thereof, subject to the following conditions:

(*a*) Reflector lenses or buttons, or other devices, which depend for visibility upon reflected light from an external source, shall not be used in night aspects, except qualifying appurtenances;

(*b*) A single white light shall not be used;

(*c*) Night aspects of signals, except qualifying appurtenances shall be shown by lights, day aspects by lights or semaphore arms;

(*d*) The aspects of cab signals shall be given by lights or illuminated letters;

(*e*) Each aspect displayed by a signal shall be identified by a name and shall indicate action to be taken. Only one name and indication shall apply to those aspects indicating the same action to be taken; the same aspect shall not be used with any other name and indication.

19. The fundamental indications of signal aspects shall conform to the following:

(*a*) A red light, a series of horizontal lights, or a semaphore blade in horizontal position shall be used to indicate STOP;

(*b*) A yellow light or a series of lights in the upper quadrant at an angle of 45° to the vertical, or a semaphore blade in the upper quadrant at an angle of 45°, shall be used to indicate that speed is to be reduced and stop may be required;

(*c*) A green light, a series of vertical lights, or a semaphore blade in a vertical position shall be used to indicate PROCEED at authorized speed.

20. Each signal shall be located with respect to the next signal or signals in advance which govern train movements in the same direction, so that the indication of a signal displaying a restrictive aspect can be complied with before reaching the signal in advance, by means of a brake application, other than an emergency application, initiated at such signal.

21. If an arm of a semaphore signal assumes a false restrictive position, or if a lamp in a light signal fails, the signal shall not display a less restrictive aspect than intended.

22. Measures shall be taken to prevent recurrence of an aspect displayed by a light signal different from the aspect intended, caused by light from an external source being reflected by the optical system of the signal.

23. For both mechanically and power operated plants, apparatus and control circuits shall be designed and so arranged in so far as possible that failure of any part of the system, the functioning of which affects safety of train operation, shall cause signals affected to give the most restrictive indications that conditions require.

24. The control circuit for power operated signals governing train movements at higher than restricted speed over switches, movable-point frogs and derails shall be selected through circuit controller operated directly by the points of such switch, frog or derail, or by switch locking mechanism, or through relay controlled by such circuit controller, for each switch, movable-point frog and derail in the route governed by such signal. Circuits

shall be arranged so that such signals can display an aspect to proceed only when each such switch, movable-point frog and derail in the route is in proper position.

25. Signal control and electric locking circuits shall not be selected through the contacts of instruments designed primarily for indicating or annunciating purposes in which an indicating element attached to the armature is arranged so that it can in itself cause improper operation of the armature.

26. The control circuit for power operated signals governing train movements at higher than restricted speed shall be controlled through track relays for all track circuits in the route governed, or through repeating relays for such track relays.

27. Track circuits, and route locking or detector bar not less than 55 feet long, shall be installed to prevent operation of switches, derails, or movable-point frogs, underneath or directly in front of a train.

28. Unless electric approach locking is provided time locking shall be installed to prevent the changing of routes until after the interlocking signal has displayed the "Stop" indication a predetermined time.

29. Indication locking shall be provided for power-operated interlocking signals, power-operated switches, movable-point frogs and derails, and for all approach signals, except light signals, all aspects of which are controlled by track circuits or by line circuits which do not include a common return circuit.

30. Electric locks shall be of the forced drop type or equivalent.

31. At mechanical interlocking all mechanically operated facing point switches, derails and movable-point frogs in main track shall be locked by facing point locks. All other mechanically operated switches, derails and movable-point frogs shall be locked by facing point locks or switch and lock movements. Bolt locks shall be provided for facing point switches, derails and movable-point frogs if the signal governing the high speed route through them is mechanically operated.

32. Mechanical or electric locking shall prevent signals from displaying aspects which permit conflicting movements. Exception may be made to permit opposing signals to display aspects indicating "Proceed at restricted speed" on a track used for switching moves only by one train at a time.

33. Steel or wrought-iron pipe one inch or larger, or members of equal strength shall be used for operating connections for switches, derails, movable-point frogs, facing point locks, rail-locking devices of movable bridge protected by interlocking, and mechanically operated signals, except up-and-down rod which may be three-fourths inch pipe or solid rod. Pipes shall be fully screwed into coupling and both ends of each pipe shall be riveted to pipe plug with two rivets. Pipe line shall not be out of alignment sufficiently to interfere with the proper operation of the interlocking, shall be properly compensated for temperature changes and supported on carriers spaced not more than 8 feet apart on tangent and curve of less than 2° and not more than 7 feet apart on curve of 2° or more. With lever in any position, couplings in pipe line shall not foul carriers.

34. When a movable bridge is protected by interlocking the signals shall be so interlocked with bridge devices that before a signal governing movement over the bridge can display an aspect to proceed the bridge and track must be aligned and locked, with the bridge locking members within one inch of their

proper position and with the track rail on the movable span within $\frac{3}{8}$" of correct surface and alignment with the rail on the bridge abutment or fixed span.

35. At automatic interlocking, signal control circuits shall be controlled by track relays for all track circuits in the route governed and by track relays for all track circuits in conflicting routes within the interlocking limits, or through repeating relays for such track relays; through signal mechanism contacts, or relay contacts closed when signals for such conflicting route display a STOP indication, and through normal contacts of time releases for all conflicting routes or contacts of relays repeating the normal position of contacts of such time releases.

36. At automatic interlockings, a loss of shunt on track circuit of five seconds or less shall not permit an established route to be changed.

37. At grade crossing with an electric railway, the electric energy for non-coded direct-current track circuit shall feed away from the crossing.

38. The length of any track circuit, except trap circuit or special circuit not used for control of signal facilities shall be greater than maximum inner wheel base of any locomotive or car.

39. Where dead section exceeds 35 feet, special circuit shall be installed. Where shortest outer wheel base of a locomotive operating over such dead section is less than 35 feet, the maximum length of the dead section shall not exceed the length of the outer wheel base of such locomotive unless special circuit is used.

40. Track circuit shall be so designed that track relay will be in de-energized position if, when track circuit is dry, a shunt of 0·06 ohm resistance is connected across the track rails of the circuit, including fouling sections of turnouts.

41. Track relay shall be in de-energized position whenever any of the following conditions exist, and the track circuit of an automatic train-stop, train-control or cab-signal system shall be de-energized in the rear of the point where any of the following conditions exists:

(*a*) When a rail is broken or a rail or switch frog is removed, except when a rail is broken or removed in the shunt fouling circuit of a turnout or crossover, provided, however, that shunt fouling circuit may not be used in a turnout through which permissible speed is greater than limited speed. It shall not be a violation of this requirement if a track circuit is energized when a break occurs within the limits of the joint bars or rail-joint bond or as a result of leakage current or foreign current in the rear of a point where a break occurs or a rail is removed; protecting signals shall be arranged to display their most restrictive indication and immediate steps taken to correct such condition when found.

(*b*) When a train, locomotive, or car occupies any part of a track circuit, including fouling section of turnout, except turnouts of a hand-operated main-track crossover. It shall not be a violation of this requirement where the presence of sand, rust, dirt, grease, or other foreign matter on the rail prevents effective shunting.

(*c*) Where switch shunting circuit is used:

1. Switch point is not closed in normal position.
2. A switch is not locked where facing-point lock with circuit controller is used.
3. An independently operated fouling-point derail equipped with switch circuit controller is not in derailing position.

42. Track shunt wires and fouling wires, except shunt wires to switch circuit controller through which signal control circuits are controlled and track circuits are shunted, shall consist of at least two conductors, and each shall be of sufficient conductivity and maintained in such condition that the track relay will be in de-energized position when the circuit is shunted.

43. Where non-coded or non-reversible track circuits are in use and where energy to one track circuit is supplied through the front contacts of an adjoining track relay, the energy circuit to such track circuit shall be open and the track circuit shunted when such relay is in de-energized position.

44. Insulated rail joints shall be installed so as to prevent sufficient track circuit current from flowing between the rails separated by the insulation to cause a failure of any track circuit involved.

45. Signal wires carried on pole lines shall be securely tied in on insulators.

46. Insulated wire shall be protected from mechanical injury. The insulation shall not be punctured for test purposes. Splice in underground wire shall have insulation resistance at least equal to the wire spliced.

47. Each wire shall be tagged or otherwise marked so it can be identified at each terminal board where practicable.

48. Nomenclature shall correspond to that of the circuit plan. Tags or other marks of identification in instrument cases and apparatus housings shall be made of insulating material and shall not interfere with moving parts of apparatus.

49. Wires shall be installed so as not to interfere with operating parts of mechanisms.

50. Lightning arrester shall be properly connected. When grounded the resistance to ground preferably should be not more than 25 ohms.

51. When mechanical locking of interlocking machine is being changed or is removed from the machine or locking becomes disarranged or broken, unless protection equivalent to mechanical locking is provided by electric locking or electric circuits, train movements through the interlocking shall not be permitted until each switch, movable-point frog, or derail in the route is spiked, clamped, or blocked in proper position so that it cannot be moved by its controlling lever, and then train movements shall not exceed restricted speed until the interlocking is restored to normal operation. It will not be necessary to comply with this requirement at interlockings where protection is in service in accordance with paragraph 24, provided that the signal controls are arranged so that the signals cannot display an aspect the indication of which is less restrictive than "proceed at restricted speed".

52. Outdoor signal and instrument cases shall be locked, except signal mechanism housings at interlockings where maintenance forces are continuously on duty. Power interlocking machine cabinets, time releases and electric locks exposed on interlocking machines shall be locked or sealed.

53. The normal functioning of any device shall not be interfered with in testing or otherwise without first taking measures for insuring safety of train operation which depends on normal functioning of such device.

54. Switch circuit controllers, facing-point locks and switch-and-lock movements and their connections shall be securely fastened in place and contacts provided with an opening of not less than one-sixteenth inch when open.

55. Circuit controller operated by switch-and-lock movement shall be provided with normally open contacts which will remain closed and normally closed contacts which will remain open until switch is locked.

56. Electric locking shall be provided for each hand-operated switch or derail within interlocking limits, except where train movements are made at not exceeding slow speed, unless otherwise authorized by the Board. At manually operated interlocking it shall be controlled from the machine and shall be unlocked only after signals governing movements over such switch or derail display aspects indicating stop. Approach or time locking shall be provided.

57. Plunger of facing-point lock shall have at least 8-inch stroke. When lever is in reverse position plunger shall pass through lock rod one-half inch or more.

58. Bolt locks shall be provided so that signal governing movements over switch or derail and displaying an aspect indicating "stop" cannot be operated to display a less restrictive aspect while derail is in derailing position or when switch point is open one-half inch or more.

59. Locking dog of switch-and-lock movement shall extend through lock rod one-half inch or more in either normal or reverse position.

60. Pole changers on electric switch operating mechanism shall be provided so that movement of switch mechanism follows movement of controlling lever.

61. Point detectors shall be provided so that when switch mechanism is locked in normal or reverse position contacts cannot be opened by manually applying force at the closed switch point. Point detector circuit controllers shall be provided so that the contacts will not assume the position corresponding to switch point closure if the switch point is prevented by an obstruction from closing to within one-fourth inch.

62. Driving pieces, dogs, stops and trunnions shall be rigidly secured to locking bars. Swing dogs shall have full and free movement. Top plates shall be securely fastened in place.

63. The various parts of the locking bed, locking bed supports, and tapped stop rail shall be rigidly secured in place and aligned to permit free operation of locking.

64. Locking faces of locking dogs shall fit squarely with a minimum engagement when locked of at least one-half the designed locking face.

65. Mechanical locking shall be in accordance with locking sheet and dog chart currently in effect.

66. Locking and connections shall be provided so that, when a lever or latch is mechanically locked, the following will be prevented:

(*a*) Mechanical Machine.
 (1) Latch-operated locking. Raising lever latch block so that bottom thereof is within three-eighths inch of top of quadrant.

(*b*) Electro-mechanical machine.
 (1) Lever moving in horizontal plane. Moving lever more than three-sixteenths inch when in normal position or more than seven-sixteenths inch when in reverse position.
 (2) Lever moving in arc. Moving lever more than 5 degrees.

(*c*) Power Machine.
 (1) Latch-operated locking. Raising lever latch block so that bottom thereof is within seven thirty-seconds inch of top of quadrant.
 (2) Lever moving in horizontal plane. Moving lever more than five-sixteenths inch when in normal position or more than nine-sixteenths inch when in reverse position.
 (3) Lever moving in arc. Moving lever more than 5 degrees.

67. In electromechanical interlocking machine, locking between electric and mechanical levers shall be designed so that mechanical lever cannot be operated except when released by electric lever.

68. Latch shoes, rocker links, and quadrants of Saxby and Farmer machines shall be provided so that locking will not release if a downward force not exceeding 250 lbs. is exerted on the rocker while the lever is in the midstroke position.

HUGH WARDROPE,
Assistant Chief Commissioner,

ORDER No. 85739

In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 13 (amended to Supplement No. 14) to Agreed Charge Tariff C.T.C. (AC) No. 62:

File No. 40994.47

WEDNESDAY, the 9th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 14 to Agreed Charge Tariff C.T.C. (AC) No. 62 on file with the Board under file No. 40994.47, be, and it is hereby, approved; and that the date as from which the said Supplement No. 14 shall be deemed to have become operative is hereby fixed as January 31, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85771

In the matter of the application of Divco Corporation of Detroit 5, Michigan, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76 as approved by the Board:

File No. 40994.60

WEDNESDAY, the 16th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Divco Corporation has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 76, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 76 for the transport by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said Agreed Charge, shipped by Divco Corporation from Windsor, Ontario, or Walkerville, Ontario, (or both), to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85772

In the matter of the application of Rootes Motors (Canada) Limited of Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76 as approved by the Board:

File No. 40994.60

WEDNESDAY, the 16th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Rootes Motors (Canada) Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 76, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 76 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said Agreed Charge, shipped by Rootes Motors (Canada) Limited from Toronto, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85774

In the matter of the application of The Bell Telephone Company of Canada, hereinafter called the "Applicant", dated February 24, 1955, under the provisions of Chapter 81 of the Statutes of Canada 11-12 George VI, for an order approving the terms and conditions of the issue, sale or other disposition of not more than 1,700,000 shares of the capital stock of the Applicant:

File No. 36730.2

WEDNESDAY, the 16th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Ottawa on the 16th day of March, 1955, in the presence of Counsel for the Applicant, no other person appearing; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in the *Canada Gazette* in conformity with the requirements of the Board's Rules of Practice, and it appearing that the proposed issue is necessary for the purposes of the financing of the extension and improvement of the Applicant's undertaking and for the general purposes of carrying on its operations—

It is ordered that approval be, and it is hereby, given to the issue and sale of not more than one million seven hundred thousand shares of the capital stock of the Applicant, as and when the Directors of the Applicant may in their discretion decide, at a price not less than thirty-seven dollars per share, upon the following conditions:

(1) That such shares be first offered to the Applicant's shareholders pro rata in the ratio of one share for each seven shares held by them on a date of record to be determined by the Applicant's Board of Directors, for the purposes of such issue: Provided, however, that as the said issue is not to be registered under the United States "Securities Act of 1933" and amendments thereto, such offering may stipulate that no subscription will be accepted from any shareholder or person or his agent who appears to be, or the Applicant has reason to believe is, a resident of the United States of America or any territory or possession thereof.

(2) That any shares not taken up by the Applicant's shareholders may be disposed of in such other manner as the Applicant's Directors may determine at or above the aforesaid price of thirty-seven dollars per share.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85787

In the matter of the application of Canada Steamship Lines Limited for a licence under section 10 of the Transport Act;

And in the matter of Order No. 85595, dated February 17, 1955:

File No. 42076.4.2

THURSDAY, the 17th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 85595, dated February 17, 1955, be and it is hereby, amended by inserting in paragraph numbered two thereof, the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Glenelg	150237	2099

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85867

In the matter of the application of the British Columbia Telephone Company under the provisions of Chapter 66 of the Statutes of Canada 6-7 Geo. V, as amended by Chapter 36 of 4-5 Geo. VI, Chapter 86 of 11 Geo. VI and Chapter 85 of 15 Geo. VI for an order approving the amount, terms and conditions of the issue and sale or other disposition of a total number of preferred shares of its capital stock not to exceed sixty thousand (60,000) shares of par value of $100.00 each:

File No. 29885.13

MONDAY, the 28th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held at Ottawa on the 28th day of March, 1955, in the presence of Counsel for the Applicant Company, no one appearing in opposition; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in the *Canada Gazette,* and its appearing that the proposed issue is necessary for the purpose of financing the capital requirements of the Applicant Company and to meet existing obligations and commitments,

It is ordered

1. That the amount, terms and conditions of a proposed issue and sale of preferred shares of the capital stock of the Applicant Company be and the same are hereby approved as follows:

(*a*) The said issue and sale shall be of not more than sixty thousand (60,000) of such preferred shares.

(*b*) The price at which such preferred shares shall be issued and sold shall be not less than one hundred dollars ($100.00) per share.

(*c*) Such preferred shares shall bear a rate of dividend not greater than four and three-eighths per cent (4 3/8%) per annum.

(*d*) Such issue and sale shall not be effected until all conditions precedent thereto whether imposed by Statute or otherwise shall have been met by the Applicant Company.

(*e*) The commission paid to the underwriters by the Applicant Company shall not exceed three dollars and twenty-five cents ($3.25) per share.

(*f*) Subject to the foregoing, such issue and sale may be made as and when the Directors of the Applicant Company may in their discretion decide.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85645 Feb. 24—Permitting the removal of slow order at C.N.R. crossing at Eglinton Avenue, Toronto, Ontario.

85646 Feb. 24—Permitting the removal of slow order at C.N.R. crossing at Colborne Street at Barrie Beach, north of Town of Barrie, Ontario.

85647 Feb. 24—Permitting the removal of slow order at C.N.R. crossing at Centre Street, east of station, City of Brampton, Ontario.

85648 Feb. 24—Permitting the removal of slow order at C.P.R. crossing of Haighs Lane, east of City of Belleville, Ontario.

85649 Feb. 24—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Laloche Rural Telephone Company Limited.

85650 Feb. 25—Permitting the removal of slow order at Quebec Central Railway Company crossing of Highway No. 34 north of station at St. Gerard, Quebec.

85651 Feb. 25—Permitting the removal of slow order at C.N.R. crossing at George Street, Town of Shelburne, Nova Scotia.

85652 Feb. 25—Permitting the removal of slow order at C.N.R. crossing at mileage 87·79 Springhill Subdivision, New Brunswick.

85653 Feb. 25—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

85654 Feb. 25—Approving Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone Somerset.

85655 Feb. 25—In the matter of the application of the Canadian Freight Association for approval of an Agreed Charge dated January 17, 1955, between certain Railways and Husky Oil & Refining Limited, on petroleum products, carloads, from Lloydminster, Alberta-Saskatchewan, to points in Alberta and Saskatchewan.

85656 Feb. 25—In the matter of the application of Calor Gas Limited, San Francisco, California, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 78 (petroleum products in tank cars).

85657 Feb. 25—Permitting the removal of slow order at New York Central Railroad Company of Provincial Highway No. 3-A, west of City of Welland, Ontario.

85658 Feb. 25—In the matter of the application of Chrysler Corporation of Canada Limited, Windsor, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 83.

85659 Feb. 25—Authorizing the C.P.R. to remove the agent and appoint a caretaker at Finmark Station, Ontario.

85660 Feb. 25—Authorizing the C.P.R. to close and remove its station at mileage 10·4 Lac du Bonnet Subdivision, Manitoba.

85661 Feb. 25—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Bow Island, Alberta.

85662 Feb. 25—Permitting the removal of slow order at C.N.R. crossing of Highway No. 400, south of Vine, Ontario.

85663 Feb. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Brechin Telephone System.

85664 Feb. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Dennie Telephone System.

85665 Feb. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Andrew, Alberta.

85666 Feb. 28—Approving proposed location of pipe lines, etc. of Imperial Oil Limited near C.N.R. tracks at Kingston, Ontario.

85667 Feb. 28—Authorizing The Hydro-Electric Power Commission of Ontario to maintain and use over the lands of the C.N.R. certain portions of transmission line which now overhang the lands of the C.N.R. adjacent to the northerly limit of a portion of their Brampton Subdivision between mileages 23·09 and 28·75, Township of Chinguacousy, County of Peel, and in the Township of Esquesing, County of Halton, Ontario.

85668 Feb. 28—Rescinding Order No. 66251, dated July 17th, 1955, which confirmed the speed limitation of ten miles per hour at the crossing of St. Gregoire Street by the Quebec Railway, Light & Power Company's tracks in the Village of Montmorency, Quebec.

85669 Mar. 1—Authorizing the Manitoba Department of Public Works to construct its highway across the C.N.R. in the Northeast quarter of Section 30-60-21 WPM. Province of Manitoba.

85670 Mar. 1—Authorizing the Quebec Department of Roads to widen the highway where it crosses the railway of the Quebec Central Railway in the Municipality of the Parish of St. Camille de Lellis, Quebec.

85671 Mar. 1—Authorizing the C.P.R. to reconstruct its bridge at mileage 88·0 Red Deer Subdivision, Alberta.

85672 Mar. 2—Approving under the Maritime Freight Rates Act tolls published in supplement to tariffs filed by the Dominion Atlantic Railway Company under section 8.

85673 Mar. 2—Authorizing the Parish of Ste. Anne du Sault, County of Arthabaska, Province of Quebec to widen the travelled portion of the highway where it crosses the C.N.R. at mileage 10·68 Aston Subdivision, Quebec.

85674 Mar. 2—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

85675 Mar. 2—Authorizing the C.P.R. to make signal changes at Westworth, St. Luc Yard, City of Montreal, Quebec.

85676 Mar. 2—Dismissing the application of the Fresh Fruit and Vegetable Receivers Association of Montreal to review the Judgment, dated July 9, 1954 and Order No. 84121, dated July 14, 1954, etc.

85677 Mar. 2—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Burnt River, Ontario.

85678 Mar. 3—In the matter of the application of the Abitibi Navigation Company, Limited, for a licence under section 10 of the Transport Act.

85679 Mar. 3—Permitting the removal of slow order at C.N.R. crossing north of station at Neustadt, Ontario.

85680 Mar. 3—Permitting the removal of slow order at C.N.R. crossing south of the station at Elmwood, Ontario.

85681 Mar. 3—In the matter of the application of the Yankcanuck Steamships Limited for a licence under section 10 of the Transport Act.

85682 Mar. 3—Permitting the removal of slow order at C.P.R. crossing at Four Pines Crossing in the City of Sherbrooke, Quebec.

85683 Mar. 3—Authorizing the C.P.R. to reconstruct Lejeune Street bridge across its right-of-way in the City of Trois Rivieres, Quebec.

85684 Mar. 3—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along certain public highway in the Corporation of the Township of Harwich, County of Kent, Ontario.

85685 Mar. 3—Approving proposed location of storage tanks, etc. of Manitoba Co-operative Wholesale Limited near C.P.R. tracks at Strathclair, Manitoba.

85686 Mar. 3—Authorizing the C.N.R. to connect their McLeod Branch with the spur trackage of the C.P.R. serving Light Weight Aggregates of Canada Limited at Calgary, Alberta

85687 Mar. 3—Authorizing The Bell Telephone Company of Canada to construct its line of telephone along certain public highway in the County of Kent, Ontario.

85688 Mar. 3—Authoriizng the Ontario Department of Highways to construct an overhead bridge across the right-of-way of The Chesapeake and Ohio Railway Company in Lot 13, Concession 7, Township of Sandwich South, County of Essex, Ontario.

85689 Mar. 3—In the matter of the application of the Northern Alberta Railways Company on behalf of Canadian Gulf Oil Company for approval of facilities for loading crude oil into tank cars from tank trucks at Grimshaw, Alberta.

85690 Mar. 3—Relieving the C.P.R. from erecting and maintaining cattleguards at certain crossings of its railway and the highway, on its Nephton Subdivision, Ontario.

85691 Mar. 3—Authorizing the C.N.R. to use and operate the bridge over the Red Deer River, Province of Alberta, at mileage 12·93 Three Hills Subdivision.

85692 Mar. 3—Authorizing the C.N.R. to operate the bridge over the Provincial Highway, Province of Alberta, at mileage 0·16 Camrose Subdivision.

85693 Mar. 4—In the matter of the application of the International Harvester Company of Canada, Limited, Chatham, Ontario, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 83.

85694 Mar. 4—Approving proposed location of pipe lines, etc. of C.N.R. for the handling and storage of inflammable liquids near their tracks at Vancouver, British Columbia.

85695 Mar. 4—Approving proposed location of storage tanks, etc. of Shell Oil Company of Canada, Limited near C.N.R. tracks at St. Felicien, Quebec.

85696 Mar. 4—Approving proposed location of storage tanks, etc. of the C.N.R. near their tracks at Fitzpatrick, Quebec.

85697 Mar. 4—Approving location of storage tanks, etc. of Hugh Gas Limited, near C.N.R. tracks at North Battleford, Saskatchewan.

85698 Mar. 4—Authorizing the C.N.R to reconstruct its overhead bridge across the road allowance between the Northwest quarter of Section 32 and the Northeast quarter of Section 31-25-19 W3M, Saskatchewan

85699 Mar. 4—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Nephton Subdivision, Ontario.

85700 Mar. 7—Approving proposed location of storage tanks, etc. of McColl-Frontenac Oil Company Limited near C.P.R. tracks at Swift Current, Saskatchewan.

85701 Mar. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Athabasca, Alberta.

85702 Mar. 7—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.N.R. tracks at Mistatin, Saskatchewan.

85703 Mar. 7—Authorizing the C.N.R to construct the existing main line track and an extension to the siding across the north and south road allowance between the Northeast quarter of Section 35-10-6-EPM and the Northwest quarter of Section 36-10-6-EPM at Anola, Manitoba

85704 Mar. 7—Authorizing the C.N.R. to construct and maintain the existing main line track and an extension to the siding at Dugald, Manitoba.

85705 Mar. 7—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.N.R. under section 3.

85706 Mar. 7—Authorizing the C.P.R. to construct a siding across Wanklyn Street, Town of LaSalle, Quebec.

85707 Mar. 7—Authorizing the C.N.R. to construct and maintain three flashing light signals and one bell at the crossing of Dundas Street East and Carlaw Avenue and the C.N.R.s' Wm. Wrigley Company siding in the City of Toronto, Ontario.

85708 Mar. 8—Permitting the removal of slow order at C.N.R. crossing of highway at McManus, New Brunswick.

85709 Mar. 8—In the matter of the application of the C.N.R. on behalf of Royalite Oil Company Limited for approval of facilities for loading crude oil into tank cars from tank trucks at Carvel, Alberta.

85710 Mar. 8—Permitting the removal of slow order at C.P.R. crossing of Main Street at Grand Falls, New Brunswick.

85711 Mar. 8—Permitting the removal of slow order at C.P.R. crossing at mileage 1·50 Shore Line Subdivision, New Brunswick.

85712 Mar. 8—Permitting the removal of slow order at C.P.R. crossing first crossing north of the station at Chipman, New Brunswick.

85713 Mar. 8—In the matter of the consideration of protection at Dundas Street East and Carlaw Avenue and two industrial sidings of the C.N.R. in the City of Toronto, Ontario.

85714 Mar. 8—Permitting the removal of slow order at C.P.R. crossing of Sheppard Avenue, north of Weston, Ontario.

85715 Mar. 8—Permitting the removal of slow order at C.N.R. crossing of Gage Avenue, City of Hamilton, Ontario.

85716 Mar. 8—Authorizing the C.N.R. to construct a pedestrian sidewalk on and along the westerly side of the roadway on their overhead bridge at Brock Street South, in the Town of Whitby, Ontario.

85717 Mar. 8—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85718 Mar. 8—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85719 Mar. 8—Authorizing the C.P.R. to appoint an operator to replace the agent-operator at Beavermouth, British Columbia.

85720 Mar. 8—Permitting the removal of slow order at C.N.R. crossing of Highway No. 2 in the Province of Ontario, at mileage 176·29 Gananoque Subdivision.

85721 Mar. 9—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the Northern Alberta Railway Company tracks at Thorhild, Alberta.

85722 Mar. 9—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the C.P.R. tracks at Two Hills, Alberta.

85723 Mar. 9—Approving proposed location of storage tanks, etc. of The British American Oil Company Limited, near C.N.R. tracks at Heinsburg, Alberta.

85724 Mar. 9—Authorizing the Ontario Department of Highways to construct the re-located Highway No. 2 across the C.N.R. in the Township of Cornwall, County of Stormont, Province of Ontario, at mileage 74·49 Cornwall Subdivision.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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In the matter of the application of the Canadian Passenger Association dated May 13, 1954, and its member lines mentioned therein, and the application of the New York Central Railroad Company and its affiliated companies operating in Canada, dated June 23, 1954, for an Order rescinding Order No. 75234, dated September 22, 1950, re commutation fares:

File No. 29984·18

Before:

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE. Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Appearances:

Mr. K. D. M. SPENCE, Q.C., for the Canadian Passenger Association and the Canadian Pacific Railway Company.

Mr. J. W. G. MACDOUGALL and Mr. HOWARD PYE, for the Canadian Passenger Association and the Canadian National Railways.

Mr. CUTHBERT SCOTT, Q.C., and Mr. KENNETH LUNDMARK, for the New York Central Railroad Company.

Mr. JACQUES VIAU, Q.C., Mr. ARMAND POUPART, Q.C., Mr. E. H. KNIGHT, C.A., for Montreal suburban municipalities.

Mr. ROBERT CAUCHON, M.P., for the Municipality of Beauharnois.

Mr. ROBERT CRAIK, for the Joint Committee of Commuters on the New York Central Railroad.

Mr. CARLYLE GILMOUR, Member of Chateauguay Heights Railway Committee.

Mr. DAWSON MCDONALD, Q.C., for the City of Montreal.

55906—1

JUDGMENT

KEARNEY, J., Chief Commissioner:

This Judgment has to do with two separate but similar applications. For convenience, I will deal with them separately.

The first is an application dated May 13, 1954 (hereinafter sometimes referred to as the main application) the first paragraph of which states that the Canadian Passenger Association for and on behalf of the member lines mentioned therein (which include Canadian National Railways and Canadian Pacific Railway Company) and the said member lines, apply to the Board for an Order rescinding Board's Order No. 75234, dated September 22, 1950.

The second application is dated June 23, 1954, by the New York Central Railroad Company and its affiliated companies operating in Canada and it likewise applies for an Order rescinding Order No. 75234.

The Main Application:

The record shows that on this application Mr. Spence appeared for the Canadian Passenger Association and Canadian Pacific Railway Company and Messrs. Macdougall and Pye appeared for the Canadian Passenger Association and the Canadian National Railways. I will refer to them as Railway Counsel. Messrs. Viau & Poupart appeared as Counsel for some 26 municipalities suburban to Montreal and served by the Canadian National and Canadian Pacific commutation services. I will refer to them as Commuters' Counsel.

It is appropriate to deal first with a motion made by Commuters' Counsel and a similar motion filed on behalf of the Town of Laval West asking the Board to declare the application and all the proceedings thereon a nullity *ab initio* on the grounds that the Applicant is not an individual nor an incorporated company, nor a registered unincorporated company and consequently possesses no legal entity and was therefore lacking in the necessary capacity to ester en justice in accordance with the common law or the law of the Province of Quebec where the Association is domiciled.

Commuters' Counsel also pleaded that a party to litigation before the Board cannot appear and/or plead except in person or through a lawyer.

It is to be noted that the application was made not only on behalf of the Canadian Passenger Association but of its member railways named in it, including Canadian Pacific and Canadian National Railways and that in filing their appearances, Counsel for the aforesaid railways, without objection or demurrer on the part of Commuters' Counsel, declared that they appeared on behalf of both the Passenger Association and the said railways.

The Board regards the application as one made by the railways named in it. The Board also has power under section 36 of the Railway Act on its own motion to inquire into, hear and determine any matter that under the Act it may inquire into, hear and determine upon application or complaint. We consider that the application was made by the railways, and is regularly before the Board and that we should deal with it and we will do so on that basis, but even if the application were made by the Canadian Passenger Association and not by the railways we are not disposed to treat it as a nullity and undo the proceedings or disregard the facts and circumstances that have come to our attention and that warrant remedial action on our part and consequently we would, if necessary in order to deal with the matter, exercise our powers under section 36 and inquire into, hear and determine the matter as if it were before us on application. The motion is therefore denied.

The application was for an Order rescinding Order No. 75234 but in the application the railways also stated in effect that the tolls prescribed by the said Order fall far short of providing even the out-of-pocket costs of the services rendered in respect of commutation traffic and are therefore unjust and unreasonable and are also unjustly discriminatory, unreasonably prejudicial and unduly and unreasonably preferential; in paragraph (3) that it is their intention following rescission of Order No. 75234 to file and publish tariffs of commutation fares upon the basis set forth in Schedule "A" for application forthwith and upon the basis set forth in Schedule "B" for application six months after the effective date of the Order applied for; in paragraph (5) that the tolls in Schedules "A" and "B" are substantially below the rate of 4¢ per mile found by the Board to be a just and reasonable rate for the carriage of passengers, and in paragraph (6) that they will not establish additional commutation services unless and until rates for commutation services will be permitted to be established and maintained upon a basis reasonably providing more than the out-of-pocket costs of supplying such services.

In their submissions, Counsel for the railways also described out-of-pocket costs of supplying such services as those directly assignable expenses which could have been avoided if the services had not been rendered and accordingly offered evidence in support thereof.

Railway Counsel made it clear during the hearing that their present application if granted would do nothing more than give the railways a "fighting chance" to recover mere out-of-pocket costs. It should also be noted that in this application the railways have omitted to include a number of classes of costs that, in varying degrees dependent upon the individual circumstances, are recognized and allowed by the Interstate Commerce Commission in dealing with commutation services in the United States and that if such additional classes were included the total potential out-of-pocket costs of the railways in the present case would be considerably higher than they are actually claiming. In the discharge of its administrative functions pertaining to just and reasonable allowances covering out-of-pocket costs, the Board considers that it should be at liberty to give due consideration not only to the principle of making deductions from the out-of-pocket costs actually claimed by the railways in their related exhibits, but also to the principle of making additions thereto where in the judgment of the Board the individual circumstances so warrant.

The first hearing of this application was held in Toronto and, apart from matters affecting train service, the evidence there was almost entirely in respect of revenues and out-of-pocket costs of commutation services. There was no objection there or elsewhere to the rescission of Order No. 75234.

In due course we rendered our Judgment, dated August 4, 1954. In it we stated that what the railways seek is the rescission of Order No. 75234 and concurrent freedom to put into effect increased commutation rates set forth in Schedules "A" and "B" and we expressed the opinion that the Canadian National should be allowed to adjust its commutation rates in the Toronto area as set forth in Schedule "B" but (as suggested by Counsel for the Commuters) that the increases be made effective on statutory notice in three stages, approximately 50 per cent of the increase to be made effective not earlier than September 30, 1954; another approximately 25 per cent not earlier than six months from the effective date of the first increase and the final portion not earlier than the expiration of another six months thereafter.

The first of these increases was put into effect in the Toronto area in accordance with the Judgment.

I think it is most important in cases such as the present one that the public, when asked to pay substantial increases in tolls, should feel fully satisfied that their representatives have had ample opportunity to procure from the railways all pertinent information relative to the case.

With this in view, I suggested to Counsel for the railways that they throw the companies' books, records and accounts open for inspection by the Commuters' Counsel and accountants and discuss with them any items requiring explanation. Railway Counsel readily acceded to the request and some examinations were in fact made.

Commuters' Counsel during the hearing more than once expressed their gratitude for the attitude adopted by the railways. Towards the closing days of the hearing, however, Commuters' Counsel expressed some doubt as to having had the necessary time to conduct as full an investigation as they desired, whereupon the Board, with the concurrence of Railway Counsel, offered to suspend the hearing to allow of such further investigation. On re-consideration, Commuters' Counsel stated that they lacked the necessary authorization to engage in further investigations.

The hearing at Montreal took place in November, 1954 and lasted ten days. Beginning December 13th, the case was argued during four days in Ottawa. Supplementary written argument was submitted on January 4th, 1955, by Counsel for the commuters. Canadian Pacific Counsel filed a written reply on January 14th, which was followed by a reply from Counsel for the Canadian National Railways on January 31st.

During the hearing, the Canadian Pacific, Canadian National and New York Central Railways gave detailed evidence and filed many exhibits in respect of their revenues and out-of-pocket costs of rendering commutation services in the Montreal area. Evidence was given on behalf of commuters opposing the application as to the effect that the rates in Schedules "A" and "B" would have on commuters and communities. The cross-examination, evidence and submissions on their behalf had the purpose of objecting to the proposed Schedules "A" and "B" and of having the Board determine that any authorized rates should be at a lesser level than the Schedules "A" and "B" rates.

In the course of the argument, Railway Counsel stated that the application asked only for rescission of Order No. 75234; that the railways did not seek approval of Schedules "A" and "B" rates; that the Board may have exceeded its jurisdiction when by its August 4th judgment it authorized the increases to be made effective in the Toronto area but at dates not earlier than the dates specified in the Judgment; that when rates are shown to be below the compensatory level the Board has jurisdiction and an obligation to see that they do not remain below that level but that the railways may, in their sole discretion, fix commutation rates at any higher level they wish if such rates are less than the coach class passenger rates and if there is no unjust discrimination; that reasonableness cannot be a factor in the zone above the compensatory level and below any level of reasonableness established either by the Board, as in the case of the standard rates, or by the railways, as in the case of the coach class rates; and that the Board's power in respect of commutation rates within the zone mentioned is capable of being exercised only in case of unjust discrimination.

Railway Counsel also indicated that their exhibits and evidence as to revenues and expenses were presented to prove that the prescribed rates were non-compensatory and to give to the Board and the public a full disclosure and a full explanation of the railways' position.

Commuters' Counsel submitted that the Board's powers in respect of commutation rates are not as limited as contended by the railways and that, on the contrary, the Board has power to fix and prescribe commutation rates that are just and reasonable both to the railways and commuters.

In 1950 the railways made very similar arguments to those made on their behalf on this application. On that occasion they had filed tariffs involving substantial increases in commutation rates. The Board suspended the tariffs, consequent on objection, and on the subsequent hearing Counsel for the railways stated:

> "The functions of this Board, if I may be permitted to say so, when commutation rates are attacked is to determine one issue and one issue only, and that issue is whether or not in the application of the commutation rates the railways are guilty of unjust discrimination. The reasonableness of the rates is not in issue" . . . "At the beginning of this hearing it was pointed out by the railways that all of the decisions of the Board and of the Supreme Court of Canada on the question of commutation tolls had held without exception that it was solely within the discretion of the railways to establish, maintain and alter commutation rates and that the Board's powers were confined to a consideration and removal of any unjust discrimination or undue preference which might result from these rates."

In its Judgment reported at 66 C.R.T.C., p. 98, the Board (Chase, C., with Sylvestre, D.C.C., concurring) reviewed the cases cited by Counsel for the railways and decided as follows on the question of jurisdiction:

> "There are two questions to be decided: (1) Has the Board jurisdiction; (2) How much of an increase should the railways be afforded.
>
> In my opinion it is quite clear from the provisions of s. 345(2) of the Railway Act, R.S.C. 1927, c. 170, that the Board has jurisdiction to *prescribe* the rates at which commutation tickets shall be issued.
>
> I find that the present rates are unreasonably low and that the proposed rates are unreasonably high and if permitted to go into effect would inflict a decided hardship upon many thousand people."

In that judgment the Board disallowed the suspended tariffs and *required* the railway concerned to grant and issue the commutation rates prescribed in Order No. 75234.

The railways applied to the Board to state a case for the opinion of the Supreme Court of Canada or, in the alternative to be granted leave to appeal to that Court from the Judgment and Order above mentioned on the following question:

> "Has the Board of Transport Commissioners for Canada the power under the Railway Act, and in particular under subsection (2) of Section 345 of that Act, upon disallowing tariffs of tolls for commutation tickets proposed by railway companies, to require the companies, as it did by its judgment and order herein, to substitute in lieu thereof tariffs of tolls that fall short of meeting out-of-pocket expenses of the companies for the commutation service provided, out-of-pocket expenses being defined for this purpose as those costs and expenses estimated to be saved if such commutation services were discontinued?"

The Board on that application for a stated case held that the Board had not found that the prescribed rates would fall short of meeting the out-of-pocket expenses and that the application, phrased as it was, must fall either as a stated case or as a question upon which leave to appeal was sought.

Railway Counsel having raised on the present application the question of the extent of the Board's power to determine the level of commutation rates, Commuters' Counsel asked the Board to state a case for the opinion of the Supreme Court of Canada upon the question of our jurisdiction in that respect.

Railway Counsel in reply asked the Board to render a decision on the railways' application rather than state a case.

We consider that instead of stating a case we should make findings on the railways' application and express our views as to the law and our jurisdiction. In our opinion the railways are now entitled to a measure of relief in respect of commutation fares and we should grant that relief and make such determinations as are possible at this time.

The decisions of the Board that were cited to us were mostly in cases decided before subsection (3) of section 350 was put into the Railway Act and were largely concerned with questions of discrimination. The Board's more recent decision in the 1950 Commutation Case (66 C.R.T.C., p. 98) reviewed practically all those cases. The cited opinion of the Supreme Court of Canada in *Toronto* v. *Grand Trunk and Canadian Pacific,* 11 C.R.C., p. 365, was also given before subsection (3) was put into the Act and the question there, which was answered in the affirmative by a majority of the Court, was whether or not section 77 (now section 322), a discrimination section, had application to the provisions of section 341 (now section 350).

Railway Counsel argued that the Board's decision in *Windsor* v. *Detroit and Canada Tunnel Corporation,* 52 C.R.T.C., p. 199, supported their views as to the Board's powers. However, although the aforementioned decision recites interpretations previously given by the Board, including the Commutation Tolls case *City of Toronto et al.* v. *Grand Trunk Railway et al.,* 25 C.R.C., p. 409, it also indicates that the Board considered and decided the issue of reasonableness of the commutation tolls by finding that it had not been proven that the proposed tolls were unreasonable or that they would produce more than reasonable revenue requirements of the companies.

I think it should be noted that in the Commutation Tolls Case, although the application was for an order authorizing a substantial increase in commutation passenger fares, the case also was concerned with applications for establishing commutation rates in other places or areas than those wherein commutation rates had been already established as well as applications seeking extension of such commutation areas.

In any event, we have again considered our powers in respect of commutation rates. In dealing with rates in general, we have broad powers under section 328 of the Railway Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require and, in respect of commutation rates in particular, we also have the powers set forth in Subsection (3) of Section 350, which reads as follows:

> "Whenever the Board sees fit it may require the company to grant and issue commutation tickets at such rates and on such terms as the Board may order."

Although the provisions of subsection (3) of section 350 are unrestrictive in character, there may arise cases such as the Brampton Cases (8 C.R.C., p. 42 and 11 C.R.C., p. 370) where the issue involved is one of unjust discrimination or undue preference due to the railways' refusal to establish commuter rates in a locality not presently enjoying them, similar to those already accorded to another locality.

We are here concerned, however, with a different case wherein the railways, on their own initiative and for many years, have caused commuter rates to be established in given areas. When they seek in the self same areas to have them increased, the Board, we think, can legally and properly consider with respect to both commuters and the railways the reasonableness or unreasonableness of the increased fares proposed and the manner in which they are sought to be applied.

It should be noted that the Board does not consider itself compelled to prescribe commuter rates as was done in the 1950 Commutation Case and that, in lieu of so doing, we are at liberty to issue a permissive Order, as was done following the Toronto hearing in the present application, as well as in such cases as *Windsor* v. *Detroit and Canada Tunnel Corporation* (cited by Counsel for the railway and herein previously referred to) and in a later case between the same parties decided in 1951 and reported in 68 C.R.T.C., p. 37.

In granting increases in freight rates, the Board has also in instances too numerable to mention issued a permissive instead of a mandatory Order.

In the Toronto phase of the hearing, we thought it would be neither wise nor necessary to issue a mandatory Order requiring the railways to put into effect a specified scale of rates involving a large increase which might possibly have the effect of curtailing commuter traffic and we accordingly rescinded a prescriptive Order and substituted therefor a permissive one. In the Order which we are about to issue, we believe the same reasoning should apply.

Given similar circumstances, we would affirm what the Board said in the 1950 commutation judgment as to our powers in respect of commutation rates. Although for reasons previously stated we do not intend herein to prescribe commuter rates, nevertheless on the facts before us in the present case, in our opinion, the Board has jurisdiction to prescribe the rates at which commutation tickets shall be issued and to fix, determine and enforce just and reasonable rates. Mileage and commutation tickets are issued for distinct purposes and in establishing the price of the tickets different considerations apply; in the case of commutation tickets, mass transportation is one of the considerations. We do not consider that commutation rates above the compensatory level and under the ceiling of coach class or standard passenger fares are *ipso facto* reasonable or that we cannot make a finding that commutation rates established by the railways within that zone are unreasonable or that we cannot fix rates within that zone or that our powers to disallow the rates may be exercised within that zone only where there is proof of unjust discrimination or undue preference.

That being our opinion as to the Board's powers and having regard to the fact that the real opposition in this case was not to rescission of Order No. 75234 but to the Schedules "A" and "B" rates proposed to take the place of the rates prescribed by that Order, we have decided to indicate in this Interim Judgment the extent to which we will authorize, approve, allow, or to use the word that appears in paragraph (6) of the application itself "permit", increases in commutation rates at this time.

Notwithstanding the submission of the railways that they have not sought approval of Schedules "A" and "B" rates, we think that in view of their expressed intention to put such rates into effect, if permitted to do so, and having regard to the part that the proposed rates have played in the hearings and the extensive evidence given as to the justification of the rates and as to their possible or probable effect on commuters and communities, it would be impracticable and unwise to determine in these proceedings only that Order No. 75234 should be rescinded. To do so would put those who object to the

proposed rates to the trouble and expense of renewing their objections when tariffs containing increases are filed and would involve the Board in a further hearing of evidence and submissions heard on this application.

Commuters' Counsel also submitted that the level of rates prescribed in 1950 is *res judicata* and therefore should stand except to the extent that subsequent changes in circumstances warrant changes in the rates; also that the Board should not take into consideration evidence stating facts subsequent to the date of the application. Commuters' Counsel in consequence submitted that if any increase is allowed it should not be much in excess of 20 per cent. There may be cases where the Board, having given a judgment in respect of rates, need consider only subsequent changes, e.g., in operating expenses, to determine what changes should be permitted in the rates, but this is not such a case. The evidence and information in our possession now in respect of the commutation services and rates are much more extensive than in 1950 and we consider that we should look at the whole situation as it now is and, in so far as we are able to do so, make such determinations as present and immediately prospective circumstances and conditions warrant.

Railway Counsel submitted that a 100 per cent increase is justified.

If Schedule "A" rates are put into effect it will mean that the cost of 40-trip tickets, which are a class of commutation tickets in most common use, will be increased approximately 50 per cent. Schedule "B" rates would result in an increase of approximately 100 per cent.

Mr. E. H. Knight, C.A., appeared as a witness on behalf of the commuters and he filed a statement as Exhibit No. C-48, which, based upon the hypotheses underlying the statement, was his version of how far the out-of-pocket expenses of the Canadian Pacific exceed its revenues on its Lakeshore commuting service.

It might be noted in passing that the witness, in selecting the above mentioned operation which was the one most favourable from the commuters' viewpoint, made no similar submission as to the excess of out-of-pocket expenses over revenue in the Canadian National Lakeshore commuters' operations, its Mount-Royal tunnel operation or any other commuter service furnished by the said railway.

In this connection, I asked the following question which evoked the following reply (Evidence, page 5504, volume 951):

> "The CHIEF COMMISSIONER: Q.—Mr. Knight, in order to sum up your evidence just in one or two sentences, it is this, that your exhibits purport to show that instead of requiring an increase of 100 per cent, in order to meet their out-of-pocket expenses, all the railways need is an increase of 35 per cent, is that it?
>
> A.—That is it, sir."

We do not propose in this interim judgment to make an analysis of the stated hypotheses underlying Exhibit No. C-48, which we believe any impartial body would have great difficulty in accepting, but it is worth noting that the above mentioned answer concedes that a 35 per cent increase in commuter rates is justified, even under the circumstances previously mentioned.

On the overall merits of the case as so far established from the sum total of the information now in our possession and exercising our own judgment we are satisfied that a good case has been made to justify the railways carrying into effect the first step of their proposed adjustment, namely, the putting into force of the Schedule "A" rates. In making that finding we should perhaps point out that the Railway Act lays down no formula or standard of reasonableness and also that out-of-pocket expenses alone are not the sole determinant of just and reasonable rates. Although we are not yet able to determine

the exact extent of the gap between prospective revenues and out-of-pocket costs, we are convinced that even if we give commuters the benefit of every reasonable doubt on our part, the revenues from the commutation services with Schedule "A" rates in effect will not for any of the railways exceed the out-of-pocket costs properly chargeable to commuter service.

In fact, unless a decidedly favourable change occurs in circumstances and conditions, it may well be that the end result will show an excess of properly allowable out-of-pocket expenses over revenue which would not be fully compensated for even if Schedule "B" rates were permitted to be put into effect.

Should the last mentioned eventually come to pass, doubtless and understandably it will be a matter of financial concern to commuters but it should not be a cause of surprise to anyone who is willing to take a broad objective approach to the basic problems involved such as commuter transportation costs and financing incentives to the railways to provide improved and expanded commuter facilities. We will have occasion later to mention that the concern of the commuting public should be shared by others affected by the ever-growing problem of traffic congestion in metropolitan areas.

The existing schedule of rates on the average affords commuter transportation facilities not only on regular runs but on practically exclusive special commuter trains for the price of a little over 1 cent per passenger mile. The same or possibly improved service at about 2 cents per passenger mile would still be substantially below prevailing ordinary passenger fares.

In applying for increases in general freight rate cases, the railways, based on Canadian Pacific requirements, have sought increases which prospectively will not only meet bare out-of-pocket costs, as in this application, but also fully prorated general expenses, overhead, taxes and the like and, in addition provide for a return on the overall capital investment in rail transportation facilities including interest on debt securities and amounts for dividends on common and preferred stock and a reasonable surplus.

In our view, the railways, by offering commutation rates calculated to provide themselves only with a "fighting chance" to exchange a new dollar for an old one on the out-of-pocket concept, are offering the commuting public an opportunity to purchase more on the average for their transportation dollar than can be secured for a like sum from almost any other business enterprise, public or private.

I asked Mr. I. Warren, Passenger Traffic Manager of the Canadian Pacific, (Evidence, volume 951, p. 5206) the following question:

> "Q.—Tell me, in the 34 years which you have been in the railroad, what variation has been made in commuter rates?
>
> A.—Practically none, sir. I have a few examples, if I might cite them, my lord . . . in 1920 the cost of a 50-trip ticket between Dorval and Montreal, which was the cheapest ticket he could buy for a month's commuting was $4.25 . . . it is now $4.60. That is for the 40-trip ticket now, because that is a month's commuting.
>
> COMMISSIONER MATTHEWS: Q.—And the purchasing power of that dollar has changed considerably in that time?
>
> A.—Very considerably, Mr. Commissioner Matthews. Let us look at Lakeside—in 1920, it is $5.50 for a 50-trip ticket. It is now $5.95 for a 40-trip ticket. Beaurepaire was, in 1920, $8.05—is now $8.70. Ste. Anne was $8.90—is now $9.55. Vaudreuil was $10.20—is now $11.05. Como—I do not want to forget Mr. Spence's home town—$12.75 in 1920 and $13.75 now. Hudson Heights was $14.00—now $15.10. . . . Rigaud was $17.40 in 1920—is $18.80 for a 40-trip ticket now.
>
> And those show the increase in that 34 years to be—I was going to venture the word 'infinitesimal'."

Commuters' Counsel recognized the reasonableness of the basic principle upon which the railways submitted their claim but took issue with the railways with respect to the manner in which the latter sought to apply the principle. They vigorously, skilfully and exhaustively contested the railways' estimates of their out-of-pocket expenses and revenues and attempted to show in numerous ways that the former were grossly overstated and the latter could be substantially increased.

Canadian National has an application before the Board for leave to discontinue its Lakeshore Montreal-Vaudreuil commutation service. Such service is an important element in the commutation scheme in that area and Canadian National gave some evidence in respect thereof. In this connection however Counsel for Canadian National Railways stated:

> "We definitely realize we have to make further proof. We just ask the Board within the commitments which we know the Board has to set the matter down as quickly as possible, because it is an integral part of the whole problem." (Vol. 954, p. 6593 of the Argument)

We likewise consider that further evidence will be necessary to enable us to appraise the effects of the proposed discontinuance in whole or in part, on the revenues and expenses of the other commutation services of that company and Canadian Pacific. We also consider that the foregoing and other issues left undetermined in this interim judgment require further investigation before a final judgment can be rendered. Further hearings in these matters will be held as expeditiously as circumstances will permit.

We mentioned several times during the course of the hearing that concern over the problem of metropolitan traffic congestion should extend to parties interested other than the commuters and railways alone. In this matter, Counsel for commuters made the following submission—(Evidence, volume 950, p. 4863):

> "We wonder if the increase in commutation fares is the best solution to the financial condition arising from the existence of commuter services. Have the railway companies approached Federal, Provincial, Civic and Municipal authorities and Boards to solicit their co-operation, in the solution of a social problem which, in fact, affects not only the commuters but also all citizens travelling whether by road or rail in the area with which we are today concerned.
>
> What we are trying to say is, why should millions of taxpayers' monies be spent on relieving congestion on the highways, with the construction of new and enlarged throughways, when a few thousand dollars could improve this situation out of all proportion to the money presently being spent.
>
> The contrary of this approach, which is obviously negative, would be the elimination of commutation services."

Mr. Warren, in replying to a question of Mr. Commissioner Matthews, said (Evidence, volume 951, p. 5221):

> ". . . we would welcome, of course, Mr. Commissioner Matthews, any assistance or anything else—such as the Toronto Board of Trade is now giving in connection with the commuter problem in that great city. We would also of course in that connection offer every co-operation—and I think the Toronto people will confirm that statement. We would welcome any such assistance but there has not been any such consideration given to the problem in Montreal so far as I know. We have had no approaches in connection with the problem made to us and we know nobody to go to, so we would welcome that of course."

Evidence to like effect was given by Mr. Whiteford, General Passenger Traffic Manager for Canadian National Railways who stated as follows:

> ". . . I must say this, that the railways cannot do it alone, but I look upon this problem as lying with the communities and the province in a greater measure than it lies with the railways, but we have got the tiger by the tail at the moment. And again I must say that we will not be able to accomplish what must be done alone. We will just be a voice crying in the wilderness. We must have the support of the municipalities and the province and every group or individual interested in that problem." (Evidence, vol. 952, p. 5906).

Thus, the commuters, the railways and the Board realize that due to the march of time and events the increasing congestion in metropolitan areas and their approaches can no longer be the concern only of the commuters, the railways and the Board and any solution, even if it is to be but partially successful, bespeaks the consideration and assistance of the governmental authorities and other public bodies most immediately concerned.

Since the close of the hearing, we have been advised that the Executive Committee of the City of Montreal, in collaboration with the Board of Trade, the Chambre de Commerce and the Canadian Manufacturers' Association, have taken the initiative in preparing a survey of the traffic problem on the Island of Montreal and that a preliminary study is already in course of preparation. We cannot commend too highly the interest shown by those undertaking the aforementioned survey and after it is filed it will be the subject of full discussion and consideration by the Board and Counsel for the commuters and the railways.

Instead of immediately rendering an interim judgment, we might call for further hearings and in the meantime have our economic and operating experts complete the further investigations on which they are presently engaged in this connection, and in the interval refrain from rendering any judgment, but as we consider that without such further hearings or investigation we are presently in a position to deal with what might be called "phase one" of the application, we believe that the interests of justice will be better served if we dispose of this aspect of the case without delay by means of an interim order in the manner contemplated by section 46, subsection (2) of the Railway Act.

In reaching this interim decision, we have considered all the evidence and submissions made to us but we do not think it necessary at this time to recite and make detailed findings in respect thereof.

With regard to the effective date of the increased fares permitted by our interim order, notwithstanding that during the hearing we indicated that an increase in commutation rates was unquestionably called for, nevertheless we think that the commuters are entitled to a reasonable prior notice before the increased fares become effective. We will, therefore, rescind Order No. 75234 and authorize the applicant railways to adjust their commutation fares but not to exceed the fares set out in Schedule "A" and on not less than thirty (30) days' notice. An Order will issue accordingly. The Order to apply to all areas other than the Toronto area to which our Order No. 84223, dated August 4, 1954 remains applicable.

The application by New York Central Railroad Company dated June 23, 1954.

Mr. Cuthbert Scott, Q.C., and Mr. Kenneth Lundmark appeared as Counsel for the applicant railways on this application. Mr. Cauchon, M.P., and Messrs. Craik and Gilmour appeared in opposition.

Counsel for the applicant railways asked that the Board authorize Schedules "A" and "B" rates as proposed in the application and did not raise any question as to our powers.

Our conclusions in respect of our powers and our findings that the rates proposed in Schedule "A" are justified apply also in respect of this application. A significant fact is that the number of commuters using trains of the Applicant Companies daily, between Montreal and Valleyfield, has diminished greatly down the years and is now approximately 227 compared with several thousand persons using private automobiles and bus service.

The interim order to be issued pursuant to this Judgment will also apply to the New York Central Railroad Company and its affiliated companies operating in Canada subject to the Board's jurisdiction and the application will be kept under consideration for final determination later.

J. D. KEARNEY.

I concur:

A. SYLVESTRE.

I concur:

F. M. MACPHERSON.

I concur:

H. B. CHASE.

I concur:

O. A. MATTHEWS.

OTTAWA, February 18, 1955.

SCHEDULE "A" REFERRED TO IN THE BOARD'S JUDGMENT AND ORDER OF FEBRUARY 18, 1955

ITEM 1—FARE BASES

Type of Ticket	*Rate Per Mile*	*Minimum Fare*
50 Trip	1.53¢ per mile.	13.5¢ per ride.
40 Trip (General Public)	1.73¢ per mile.	13.5¢ per ride.
40 Trip (Scholars')	.77¢ per mile.	13.5¢ per ride.
20 Trip (Family)	1 to 4 miles.....Minimum fare. 5 to 7 miles.....3¢ per mile. 8 miles and over....35% off 50 trip ticket fare.	13.5¢ per ride.
10 Trip	3¢ per mile.	13.5¢ per ride.

ITEM 2—FARES ON DISTANCE SCALE

NOTE: Columns A, B. D and E available to the general public; Column C available to scholars in regular attendance at educational institutions, on surrender of Canadian Passenger Association Form 86 or Form 86B.

One Way Distance (Miles)	(A) 50 Trip Tickets	(B) 40 Trip Tickets (General Public)	(C) 40 Trip Tickets (Scholars' Tickets)	(D) 20 Trip Tickets (Family)	(E) 10 Trip Tickets
	$ ¢	$ ¢	$ ¢	$ ¢	$ ¢
1	6.75	5.40	5.40	2.70	1.35
2	6.75	5.40	5.40	2.70	1.35
3	6.75	5.40	5.40	2.70	1.35
4	6.75	5.40	5.40	2.70	1.35
5	6.75	6.00	5.40	3.00	1.50
6	6.75	6.05	5.40	3.50	1.75
7	6.75	6.05	5.40	4.20	2.10
8	6.75	6.05	5.40	4.40	2.40
9	6.80	6.10	5.40	4.40	2.70
10	7.65	6.90	5.40	4.95	3.00
11	8.40	7.55	5.40	5.45	3.30
12	9.15	8.25	5.40	5.95	3.60
13	9.90	8.90	5.40	6.45	3.90
14	10.70	9.65	5.40	6.95	4.20
15	11.40	10.25	5.40	7.40	4.50
16	12.20	11.00	5.40	7.95	4.80
17	12.95	11.65	5.40	8.40	5.10
18	13.80	12.40	5.45	8.95	5.40
19	14.45	13.00	5.85	9.40	5.70
20	15.30	13.75	6.15	9.95	6.00

SCHEDULE "A"

ITEM 2—FARES ON DISTANCE SCALE (Cont'd)

Note: Columns A. B. D and E available to the general public; Column C available to scholars in regular attendance at educational institutions, on surrender of Canadian Passenger Association Form 86 or Form 86B.

One Way Distance (miles)	(A) 50 Trip Tickets	(B) 40 Trip Tickets (General Public)	(C) 40 Trip Tickets (Scholars' Tickets)	(D) 20 Trip Tickets (Family)	(E) 10 Trip Tickets
	$ ¢	$ ¢	$ ¢	$ ¢	$ ¢
21	16.05	14.45	6.35	10.45	6.30
22	16.80	15.10	6.75	10.90	6.60
23	17.55	15.80	7.05	11.40	6.90
24	18.35	16.50	7.35	11.95	7.20
25	19.05	17.15	7.65	12.40	7.50
26	19.85	17.85	7.95	12.90	7.80
27	20.60	18.55	8.25	13.40	8.10
28	21.45	19.30	8.55	13.95	8.40
29	22.10	19.90	8.90	14.35	8.70
30	22.95	20.65	9.15	14.90	9.00
31	23.70	21.35	9.45	15.40	9.30
32	24.45	22.00	9.80	15.90	9.60
33	25.20	22.70	10.05	16.40	9.90
34	26.00	23.40	10.40	16.90	10.20
35	26.70	24.05	10.70	17.35	10.50
36	27.50	24.75	10.95	17.85	10.80
37	28.25	25.40	11.30	18.35	11.10
38	29.10	26.20	11.60	18.90	11.40
39	29.75	26.75	12.00	19.35	11.70
40	30.60	27.55	12.20	19.90	12.00
41	31.35	28.20	12.50	20.40	12.30
42	32.10	28.90	12.90	20.85	12.60
43	32.85	29.55	13.10	21.35	12.90
44	33.65	30.30	13.50	21.85	13.20
45	34.35	30.90	13.80	22.35	13.50
46	35.15	31.65	14.00	22.85	13.80
47	35.90	32.30	14.40	23.35	14.10
48	35.75	33.05	14.70	23.90	14.40
49	37.40	33.65	15.00	24.30	14.70
50	38.25	34.40	15.30	24.85	15.00

ORDER No. 85599

In the matter of the application of the Canadian Passenger Association, dated May 13, 1954, and its member lines mentioned therein, and the application of the New York Central Railroad Company and its affiliated companies operating in Canada, dated June 23, 1954, for an Order rescinding Order No. 75234, dated September 22, 1950, re commutation fares:

File No. 29984.18

FRIDAY, the 18th day of February, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the matter at sittings of the Board at Montreal and Ottawa in November and December, 1954, in the presence of Counsel for the applicant railway companies, certain Montreal suburban municipalities and the City of Montreal and of other persons and upon consideration of the submissions and argument filed—

It is ordered

1. That Order No. 75234, dated September 22, 1950, be, and it is hereby rescinded.

2. That the applicant railway companies may in all commutation areas other than the Toronto area adjust their rates for commutation passenger traffic in accordance with the interim judgment herein dated the 18th day of February, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

(Traduction)

LA COMMISSION DES TRANSPORTS DU CANADA

Au sujet de la requête de l'Association Canadienne des Voyageurs, datée du 13 mai 1954 et des lignes ferroviaires y mentionnées qui en font partie et de la requête de la Compagnie de chemin de fer New York Central et de ses filiales exploitées au Canada, datée du 23 juin 1954, visant à obtenir l'émission d'une ordonnance abrogeant l'ordonnance nº 75234, datée du 22 septembre 1950, portant sur les billets d'abonnés.

Dossier nº 29984.18

Devant:

L'honorable juge JOHN D. KEARNEY, *commissaire en chef*
A. SYLVESTRE, C.R., *commissaire en chef suppléant*
F. M. MACPHERSON, *commissaire*
H. B. CHASE, C.B.E., *commissaire*
O. A. MATTHEWS, *commissaire*

Comparutions:

K. D. M. Spence, C.R., pour l'Association Canadienne des Voyageurs et la Compagnie de chemin de fer Pacifique-Canadien
J. W. G. MACDOUGALL et HOWARD PYE, pour l'Association Canadienne des Voyageurs et des Chemins de fer Nationaux du Canada
CUTHBERT SCOTT, C.R., et KENNETH LUNDMARK, pour la Compagnie de chemin de fer New York Central
JACQUES VIAU, C.R., ARMAND POUPART, C.R., E. H. KNIGHT, C.R., pour les municipalités de la banlieue de Montréal
ROBERT CAUCHON, député, pour la municipalité de Beauharnois
ROBERT CRAIK, pour le Comité conjoint des abonnés de la Compagnie de chemin de fer New York Central
CARLYLE GILMOUR, membre du Comité des chemins de fer de Châteauguay-Heights
DAWSON MCDONALD, C.R., pour la ville de Montréal

JUGEMENT

KEARNEY, J., commissaire en chef:

Le présent jugement se rapporte à deux requêtes distinctes mais de même nature. Pour plus de commodité, je traiterai de chacune d'elles séparément.

La première est une requête datée du 13 mai 1954 (ci-après désignée parfois sous le nom de requête principale) dont le premier alinéa porte que l'Association Canadienne des Voyageurs pour les lignes ferroviaires y mentionnées qui en font partie (lesquelles comprennent les Chemins de fer Nationaux du Canada et le Pacifique-Canadien) et lesdites lignes qui en font partie, demandent à la Commission l'émission d'une ordonnance abrogeant l'ordonnance nº 75234 de la Commission, datée du 22 septembre 1950.

La deuxième requête datée du 23 juin 1954 et venant de la Compagnie de chemin de fer New York Central et de ses filiales exploitées au Canada vise également à obtenir l'émission d'une ordonnance abrogeant l'ordonnance nº 75234.

La requête principale:

Les dossiers révèlent que dans cette requête, M. Spence représentait l'Association Canadienne des Voyageurs et le Pacifique-Canadien, tandis que MM. Macdougall et Pye représentaient l'Association Canadienne des Voyageurs et les chemins de fer Nationaux du Canada. Je les désignerai sous le nom d'avocats de chemin de fer. MM. Viau et Poupart représentaient, à titre d'avocats, quelque 26 municipalités de la banlieue de Montréal desservies par les services d'abonnés des Chemins de fer Nationaux du Canada et du Pacifique-Canadien. Je les désignerai sous le nom d'avocats des abonnés.

Il convient de traiter d'abord d'une proposition des avocats conseils des abonnés et d'une proposition semblable déposée au nom de la municipalité de Laval-Ouest demandant à la Commission de déclarer la requête et toutes les procédures s'y rapportant nulles *ab initio* sous prétexte que la requérante n'est pas un particulier, ni une société constituée, ni une société enregistrée non constituée et qu'en conséquence elle n'est pas personne morale et n'a donc pas qualité pour ester en justice en conformité du droit commun ou de la loi de la province de Québec où l'Association a son siège social.

Les avocats des abonnés ont aussi allégué qu'une partie en litige devant la Commission ne peut comparaître et (ou) plaider sauf en personne ou par l'entremise d'un avocat.

Il convient de faire observer que la requête a été faite non seulement au nom de l'Association Canadienne des Voyageurs mais aussi au nom des chemins de fer qui en font partie, y compris le Pacifique-Canadien et le National-Canadien et qu'en acceptant de représenter les chemins de fer précités, sans objection ni fin de non recevoir de la part de l'avocat des abonnés, les avocats des chemins de fer susdits ont déclaré qu'ils comparaissaient tant pour l'Association Canadienne des Voyageurs que pour lesdits chemins de fer.

La Commission considère la requête comme une requête présentée par les chemins de fer y mentionnés. La Commission a aussi le pouvoir en vertu de l'article 36 de la loi sur les chemins de fer sur sa propre proposition d'étudier, d'entendre et de juger toute question qu'en vertu de la Loi elle est autorisée à étudier, à entendre et à juger par suite de requêtes ou de plaintes. Nous estimons que la requête a été présentée par les chemins de fer, qu'elle est devant la Commission selon les règles et que nous devrions la régler comme telle, ce que nous ferons, mais même si la requête était présentée par l'Association Canadienne des Voyageurs et non par les chemins de fer, nous ne sommes pas disposés à la traiter comme étant nulle et à annuler les procédures ou à ne pas tenir compte des faits et des circonstances qui ont retenu notre attention et justifié une mesure remédiatrice de notre part et en conséquence, nous serions prêts, si cela était nécessaire pour traiter la question, à exercer les pouvoirs qui nous sont conférés en vertu de l'article 36 et à étudier, entendre et juger la question comme si elle était devant nous à titre de requête. La motion est donc rejetée.

La requête visait à obtenir l'émission d'une ordonnance abrogeant l'ordonnance nº 75234, mais dans la requête les autorités des chemins de fer ont aussi déclaré en fait que les taxes prescrites par ladite ordonnance ne suffisent pas à assurer même les déboursés des services relatifs au trafic des abonnés et ils sont donc injustes et déraisonnables et ils sont également injustement différentiels, déraisonnablement préjudiciables et indûment et déraisonnablement préférentiels; à l'alinéa (3) elles déclarent qu'elles ont l'intention après l'abrogation de l'ordonnance nº 75234 de déposer et publier des tarifs d'abonnement fondés sur les données de l'annexe "A" pour application immédiate et sur les données de l'Annexe "B" pour être appliqués six mois après la date d'entrée en vigueur de l'ordonnance faisant l'objet de la requête; à l'alinéa (5) que les taxes des annexes "A" et "B" sont effectivement inférieures à la taxe

de 4c. du mille que la Commission a jugée équitable et raisonnable pour le transport des voyageurs et à l'alinéa (6) qu'elles n'établiront pas d'autres services des trains pour abonnés à moins et tant qu'il ne sera permis d'établir et de maintenir des services de trains pour abonnés sur une base assurant raisonnablement plus que les déboursés nécessaires pour exploiter ces services.

Dans leurs exposés, les avocats des chemins de fer ont aussi décrit les déboursés nécessaires pour assurer des services comme étant des déboursés directement afférents qui auraient pu être évités si les services n'avaient pas été assurés et, en conséquence, ils ont fourni des preuves à l'appui.

Les avocats des chemins de fer ont précisé au cours de l'audience que leur présente requête, si elle était agréée, ne ferait rien d'autre que de donner aux chemins de fer la chance de recouvrer de simples déboursés. Il convient aussi de noter que dans cette requête, les chemins de fer ont négligé de citer un certain nombre de catégories de frais qui à des degrés différents soumises à des circonstances particulières sont reconnues et autorisées par la Interstate Commerce Commission dans leurs relations avec les services des trains pour abonnés aux États-Unis et que si ces catégories supplémentaires étaient comprises l'ensemble des déboursés des chemins de fer dans le cas présent serait considérablement plus élevé qu'ils ne le prétendent. Dans l'exercice de ses fonctions administratives se rapportant à des allocations équitables et modérées pouvant couvrir les déboursés, la Commission estime qu'elle devrait être libre d'examiner minutieusement non seulement le principe de faire des déductions sur les déboursés effectivement réclamés par les chemins de fer dans leurs pièces à l'appui, mais aussi le principe d'ajouter à ces déboursés lorsque de l'avis de la Commission, les circonstances particulières l'autorisent.

La première audience de cette requête a été tenue à Toronto. En dehors des questions touchant les services de trains, les témoignages entendus à cette audience se rapportaient presque entièrement aux recettes et aux déboursés des services des trains pour abonnés. Aucune objection n'a été faite là ou ailleurs à l'abrogation de l'ordonnance nº 75234.

Le 4 août 1954, au moment opportun, nous avons rendu notre jugement. Dans ce jugement, nous avons déclaré que les chemins de fer cherchent à obtenir l'abrogation de l'ordonnance nº 75234 et en conséquence, la liberté d'appliquer les tarifs d'abonnement accrus établis dans les annexes "A" et "B" et nous avons exprimé l'opinion que le National-Canadien devrait être autorisé à modifier ses tarifs d'abonnement dans la région de Toronto d'après l'annexe "B" mais, comme le conseillent les avocats des abonnés, que les majorations entrent en vigueur en trois temps après avis officiel; environ 50 p. 100 des majorations ne devant pas entrer en vigueur avant le 30 septembre 1954, environ 25 p. 100 au moins six mois après la date effective de la première majoration et la dernière partie pas avant l'expiration d'une autre période de six mois.

La première de ces majorations est entrée en vigueur dans la région de Toronto conformément au jugement.

Je pense qu'il est extrêmement important dans des cas comme celui-ci que le public soit entièrement convaincu, lorsqu'il est appelé à payer des augmentations importantes de tarifs, que ses représentants ont eu toutes les occasions de se procurer des chemins de fer tous les renseignements relatifs à la question.

Dans cet esprit, j'ai conseillé aux avocats des chemins de fer de mettre les livres, les dossiers et les comptes de la compagnie à la disposition des avocats et des comptables des abonnés et d'étudier avec ceux-ci tout détail qui nécessite une explication. Les avocats des chemins de fer ont volontiers accédé à cette demande et des items ont ainsi été examinés.

Les avocats des abonnés ont plus d'une fois au cours de l'audience exprimé leur satisfaction vis-à-vis cette ligne de conduite adoptée par les chemins de fer. Au cours des derniers jours de l'audience, cependant, les avocats des abonnés se sont demandé s'ils avaient eu le temps voulu pour mener une enquête aussi poussée qu'ils le désiraient, sur quoi la Commission, avec l'assentiment de l'avocat des chemins de fer, a proposé de suspendre l'audience afin de permettre la poursuite de l'enquête. Après mûre réflexion, l'avocat des abonnés a déclaré qu'ils n'avaient pas l'autorité nécessaire pour mener plus loin l'enquête.

L'audience à Montréal a eu lieu en novembre 1954 et elle a duré 10 jours. A compter du 13 décembre, l'affaire a été débattue pendant quatre jours à Ottawa. Des arguments supplémentaires ont été soumis par écrit le 4 janvier 1955 par l'avocat des abonnés. L'avocat du Pacifique-Canadien a déposé le 14 janvier une réponse écrite qui a été suivie le 31 janvier d'une réponse venant de l'avocat des Chemins de fer Nationaux du Canada.

Pendant l'audience, les représentants des chemins de fer Pacifique-Canadien, National-Canadien et New York Central ont fourni des témoignages détaillés et déposé nombre de pièces à l'appui relativement à leurs recettes et déboursés découlant de leurs services des trains pour abonnés dans la région de Montréal. Des témoignages ont été entendus en faveur des abonnés opposés à la requête en raison de l'effet que les tarifs des annexes "A" et "B" auraient sur les abonnés et les collectivités. L'interrogatoire contradictoire, les témoignages et les soumissions faits en leur nom avaient pour but de faire opposition aux annexes proposés "A" et "B" et d'amener la Commission à déclarer que toute taxe autorisée devrait être inférieure à celles des annexes "A" et "B".

Au cours des délibérations, l'avocat des abonnés a déclaré que la requête ne visait qu'à obtenir l'abrogation de l'ordonnance nº 75234; que les chemins de fer ne cherchaient pas à obtenir l'homologation des tarifs exposés aux annexes "A" et "B"; que la Commission avait outrepassé sa juridiction lorsqu'en vertu de son jugement du 4 août elle autorisait que les majorations soient appliquées dans la région de Toronto, mais pas avant les dates spécifiées dans le jugement; que lorsqu'il est avéré que les tarifs sont inférieurs au niveau compensatoire, la Commission a le droit et l'obligation de veiller à ce qu'ils ne demeurent pas inférieurs à ce niveau, mais les chemins de fer peuvent, à leur seule discrétion, établir des tarifs d'abonnement à tout niveau plus élevé qu'ils désirent, si ces tarifs sont inférieurs aux tarifs-voyageurs de première classe et s'il n'y a pas de distinction injuste; que la modération ne saurait être prise comme facteur dans la zone au-dessus du niveau compensatoire et au-dessous de tout niveau de modération établi, soit par la Commission, comme dans le cas des tarifs normaux, soit par les chemins de fer, comme dans le cas des tarifs des voitures de première classe; et que les pouvoirs de la Commission en ce qui concerne les tarifs d'abonnement dans la zone précitée ne peuvent être exercés qu'en cas de distinction injuste.

L'avocat des chemins de fer a aussi mentionné que leurs pièces justificatives et leurs témoignages relatifs aux recettes et aux dépenses étaient présentés de façon à prouver que les tarifs prescrits n'étaient pas compensatoires et à donner à la Commission et au public une révélation et une explication complètes de la situation des chemins de fer.

L'avocat des abonnés a allégué que les pouvoirs de la Commission en ce qui a trait aux tarifs d'abonnement ne sont pas aussi limités que le prétendent les compagnies de chemin de fer et qu'en revanche, la Commission a le pouvoir d'établir et de prescrire des tarifs d'abonnement équitables et modérés tant pour les chemins de fer que pour les abonnés.

En 1950, les compagnies de chemin de fer ont présenté des arguments semblables à ceux qui ont été présentés en leur nom dans la présente requête. En cette occasion, elles avaient déposé des tarifs comportant des majorations importantes des taxes d'abonnement. La Commission a suspendu les tarifs, en raison des objections et lors des audiences ultérieures, l'avocat représentant les chemins de fer a déclaré:

> "The functions of this Board, if I may be permitted to say so, when commutation rates are attacked is to determine one issue and one issue only, and that issue is whether or not in the application of the commutation rates the railways are guilty of unjust discrimination. The reasonableness of the rates is not in issue" . . . "At the beginning of this hearing it was pointed out by the railways that all of the decisions of the Board and of the Supreme Court of Canada on the question of commutation tolls had held without exception that it was solely within the discretion of the railways to establish, maintain and alter commutation rates and that the Board's powers were confined to a consideration and removal of any unjust discrimination or undue preference which might result from these rates."

Dans son jugement, publié sous forme de rapport dans le 66 C.R.T.C., page 98, la Commission (Chase et Sylvestre, C.A.S. agréant) a examiné les cas cités par l'avocat représentant les chemins de fer et a pris les décisions suivantes sur la question de la juridiction:

> "Il y a deux questions à décider: (1) la Commission a-t-elle juridiction? (2) quel pourcentage de majoration devrait être accordé aux chemins de fer?
>
> Dans mon opinion, il est bien évident que d'après les dispositions du paragraphe 2 de l'article 345 de la Loi sur les chemins de fer, la Commission a juridiction pour prescrire les taux des billets d'abonnement.
>
> Je crois que les taux actuels sont déraisonnablement bas et que les taux proposés sont déraisonnablement élevés et que si l'on autorisait la mise en vigueur de ces derniers, des milliers de personnes en subiraient de graves inconvénients".

Dans ce jugement, la Commission a rejeté les tarifs en suspens et a exigé que le chemin de fer intéressé accorde et publie les tarifs d'abonnement prescrits dans l'ordonnance nº 75234.

Les compagnies de chemin de fer ont demandé à la Commission de citer un cas pour la gouverne de la Cour Suprême du Canada ou, à défaut, de leur accorder la permission d'en appeler à cette cour du jugement et de l'ordonnance susmentionnée sur la question suivante:

> "Has the Board of Transport Commissioners for Canada the power under the Railway Act, and in particular under subsection (2) of Section 345 of that Act, upon disallowing tariffs of tolls for commutation tickets proposed by railway companies, to require the companies, as it did by its judgment and order herein, to substitute in lieu thereof tariffs of tolls that fall short of meeting out-of-pocket expenses of the companies for the commutation service provided, out-of-pocket expenses being defined for this purpose as those costs and expenses estimated to be saved if such commutation services were discontinued?"

La Commission, priée de citer un cas, a soutenu qu'elle ne trouvait pas que les tarifs prescrits seraient insuffisants pour subvenir aux déboursés et que la requête ainsi rédigée doit être considérée, soit comme un cas cité, soit comme une question qui a fait l'objet d'un appel.

L'avocat des chemins de fer ayant posé, au sujet de la présente requête, la question de l'étendue des pouvoirs de la Commission lui permettant de fixer le niveau des tarifs d'abonnement, l'avocat des abonnés a demandé à la Commission de citer un cas pour la gouverne de la Cour Suprême du Canada en ce qui concerne notre juridiction à cet égard.

En réponse, l'avocat des chemins de fer a demandé à la Commission de rendre une décision sur la requête des chemins de fer plutôt que de citer un cas.

Nous estimons qu'au lieu de citer un cas, nous devrions faire des constatations sur la requête des chemins de fer et exprimer notre opinion sur la loi et notre juridiction. A notre avis, les chemins de fer ont maintenant droit à un certain allègement en ce qui concerne les tarifs d'abonnement et nous devrions leur accorder cette faveur et prendre les déterminations qui sont possibles à l'heure actuelle.

Les décisions de la Commission qui nous ont été citées avaient trait pour la plupart à des cas qui avaient été décidés avant que le paragraphe 3 de l'article 350 ne fût incorporé à la Loi sur les chemins de fer et qui traitaient de questions de discernement. La décision la plus récente de la Commission dans le cas des abonnements de chemin de fer en 1950 (66 C.R.T.C., p. 98) examinait pour ainsi dire tous les autres cas. Le jugement de la Cour Suprême du Canada concernant l'affaire Cité de Toronto v. les chemins de fer Grand Trunk et Pacifique-Canadien, 11 C.R.C., p. 365, a aussi été rendu avant l'incorporation du paragraphe 3 à la Loi et la question qui a reçu une réponse affirmative de la part de la majorité des membres de la Cour était de savoir si l'article 77 (maintenant article 322), article prévoyant des mesures discriminatoires, s'appliquait aux dispositions de l'article 341 (maintenant article 350).

L'avocat des chemins de fer a soutenu que la décision prise par la Commission dans la cause qui opposait Windsor à Détroit et la Canada Tunnel Corporation, 52 C.R.T.C., p. 199, confirmait leur conception des pouvoirs de la Commission. Cependant, bien que la décision précitée énumère des interprétations données auparavant par la Commission, au nombre desquelles se trouve la cause qui a opposé au sujet des taxes de billets d'abonnement la ville de Toronto et al., au Chemin de fer Grand Trunk et al., 25 C.R.C., p. 409, elle indique aussi que la Commission a étudié et décidé la question relative à la modération des tarifs d'abonnement en constatant qu'il n'avait pas été prouvé que les tarifs proposés étaient immodérés ou qu'ils rapporteraient plus que les recettes raisonnables dont les compagnies ont besoin.

Il convient de noter, je crois, que dans la cause relative aux tarifs d'abonnement, bien que la requête visait à obtenir une ordonnance autorisant une majoraiton importante des billets d'abonnés, il était aussi question de requêtes demandant l'établissement de tarifs d'abonnement dans d'autres endroits ou régions que celles où avaient déjà été établis des tarifs d'abonnement, de même que des requêtes concernant l'agrandissement de ces zones d'abonnement.

Dans tous les cas, nous avons de nouveau réfléchi à nos pouvoirs en ce qui concerne les tarifs d'abonnement. Pour ce qui est des tarifs en général, nous avons des pouvoirs étendus en vertu de l'article 328 de la Loi sur les chemins de fer nous permettant d'établir, fixer et appliquer des tarifs équitables et modérés et de modifier et remanier les taux ainsi que l'exigent de temps à autre l'évolution des circonstances ou le coût du transport et,

en ce qui concerne les tarifs d'abonnement en particulier, nous avons aussi les pouvoirs formulés par le paragraphe 3 de l'article 350 de la façon suivante:

> "Lorsque la Commission le juge à propos, elle peut mettre la compagnie en demeure d'accorder et d'émettre des cartes d'abonnement aux taux et conditions que la Commission peut ordonner."

Bien que les dispositions du paragraphe 3 de l'article 350 ne comportent pas de restrictions, il peut se présenter des cas comme ceux de Brampton (8 C.R.C., p. 42 et 11 C.R.C., p. 370) où il est question de favoritisme injuste ou de préférence excessive en raison du refus des chemins de fer d'établir des tarifs d'abonnement dans une localité qui n'avait pas ces avantages comme les autres localités.

Nous sommes en présence cependant, d'un cas différent où les chemins de fer ont, de leur propre initiative et pendant nombre d'années, fait établir des tarifs d'abonnement dans des régions déterminées. Lorsqu'ils cherchent à les faire majorer dans les mêmes régions, la Commission peut, à notre avis, examiner légalement et convenablement, en tenant compte tant des abonnés que des chemins de fer, si les majorations proposées sont raisonnables ou non et étudier la modalité de leur application.

Il convient de signaler que la Commission ne se sent pas obligée de prescrire des tarifs d'abonnement comme cela s'est produit en 1950 dans la cause concernant les services de trains d'abonnés et qu'au lieu d'agir ainsi, nous sommes libres d'émettre une ordonnance facultative comme celle qui a suivi l'audience de la présente requête à Toronto, de même dans des causes comme celle qui a opposé Windsor à Detroit et à la Canada Tunnel Corporation (citée par l'avocat des chemins de fer et susmentionnée dans le présent jugement) et dans une cause plus récente entre les mêmes parties, cause qui a été jugée en 1951 et inscrite à la page 37 du 68 C.R.T.C.

En accordant une majoration des tarifs-marchandises, la Commission a aussi, dans des cas trop nombreux pour les citer, émis une ordonnance permissive au lieu d'une ordonnance impérative.

Dans l'audience qui a eu lieu à Toronto, nous avons pensé qu'il ne serait ni sage ni nécessaire d'émettre une ordonnance en vertu de laquelle les chemins de fer seraient tenus de mettre en vigueur une échelle de tarifs déterminée qui pourrait avoir pour effet de diminuer le trafic d'abonnés et nous avons en conséquence annulé une ordonnance obligatoire pour la remplacer par une ordonnance permissive. Dans celle que nous sommes à la veille d'émettre, nous sommes d'avis que le même raisonnement s'impose.

Devant des circonstances analogues, nous affirmerions ce que la Commission a déclaré lors du jugement de 1950 concernant nos pouvoirs vis-à-vis des tarifs d'abonnement. Bien que pour des raisons précitées nous n'ayons pas ici l'intention de prescrire des tarifs d'abonnement, nous estimons néanmoins, d'après les faits qui nous ont été présentés dans la présente cause, que la Commission a la compétence nécessaire pour prescrire les tarifs auxquels les billets d'abonnement devront être émis et établir, fixer et mettre en vigueur des tarifs équitables et raisonnables. Les carnets milliaires et les cartes d'abonnement sont émis à des fins précises et diverses considérations entrent en ligne de compte lorsque leur prix est établi; dans le cas de cartes d'abonnement, le transport en masse constitue une des considérations. Nous n'estimons pas que des tarifs d'abonnement supérieurs au niveau compensatoire et inférieurs au plafond des prix de passages en wagon de première classe ou "coach" soient par le fait même raisonnables, ou qu'il nous soit impossible de conclure que les tarifs d'abonnement établis par les chemins de fer dans cette zone soient déraisonnables ou qu'il nous

soit impossible d'établir des tarifs dans cette zone ou encore que nos pouvoirs nous permettant de désavouer les tarifs puissent être exercés seulement dans cette zone où il existe des preuves de favoritisme injuste ou de préférence excessive.

Étant donné notre opinion relativement aux pouvoirs de la Commission et eu égard au fait que la véritable opposition dans cette cause n'était pas exercée contre l'abrogation de l'ordonnance nº 75234 mais contre les tarifs proposés dans les annexes "A" et "B" en remplacement des tarifs prescrits par cette ordonnance, nous avons décidé d'indiquer dans ce jugement intérimaire jusqu'à quel point nous sommes disposés à autoriser, approuver, accepter ou, pour reprendre le mot employé à l'alinéa (6) de la requête même, "permettre" à l'heure actuelle des augmentations des tarifs d'abonnement.

Nonobstant la déposition des Chemins de fer à l'effet qu'ils n'ont pas cherché à obtenir l'approbation des tarifs des annexes "A" et "B", nous sommes d'avis qu'il ne serait ni pratique ni sage de décider à la suite de ces seules délibérations que l'Ordonnance nº 75234 devrait être annulée, étant donné l'intention que les Chemins de fer ont exprimée de mettre ces tarifs en vigueur, si la permission leur en est accordée, et eu égard au rôle que les tarifs projetés ont joué au cours des audiences, ainsi qu'aux nombreux témoignages concernant la justification de ces tarifs et leur effet possible ou probable sur les abonnés et les collectivités. Une telle décision obligerait ceux qui s'opposent aux tarifs projetés à encourir les frais de renouveler leurs objections lorsque les augmentations de tarifs seraient présentés et nécessiterait de la part de la Commission une nouvelle audience des témoignages et des exposés entendus au sujet de cette demande.

L'avocat des abonnés a de plus allégué que le niveau des tarifs prescrit en 1950 est *res judicata* et doit par conséquent être maintenu, sauf dans le cas où des changements de circonstance justifient des modifications de tarifs. Il a aussi déclaré que la Commission ne devrait pas prendre en considération les témoignages se rapportant à des faits consécutifs à la date de la demande. Il est donc proposé par l'avocat des abonnés que toute augmentation qui pourrait être permise ne devrait guère excéder 20 p. 100. Il peut se présenter des cas où la Commission, après avoir rendu un jugement au sujet des tarifs, n'ait à considérer que les changements subséquents, par exemple dans les frais d'exploitation, pour déterminer quelles modifications pourraient être permises dans les tarifs, mais tel n'est pas le cas. Nous possédons actuellement beaucoup plus de témoignages et de renseignements concernant les services et les tarifs d'abonnement que nous n'en avions en 1950. Nous estimons donc que nous devrions étudier l'ensemble de la situation telle qu'elle se présente maintenant et prendre dans toute la mesure où nous le pouvons, les décisions que les circonstances et les conditions actuelles et celles d'un avenir immédiat semblent justifier.

L'avocat des Chemins de fer a proposé qu'une augmentation de 100 p. 100 serait justifiée.

L'entrée en vigueur des tarifs de l'annexe "A" amènerait une augmentation d'environ 50 p. 100 du coût de la carte d'abonnement de 40 voyages, laquelle est la catégorie la plus en usage. Les tarifs de l'annexe "B" représenteraient une augmentation d'environ 100 p. 100.

M. E. H. Knight, C.A., a comparu à titre de témoin au nom des abonnés et a produit, comme pièce à l'appui nº C-48, un exposé qui, d'après l'hypothèse lui servant de base, décrit dans quelle mesure, selon lui les déboursés dépassent les recettes du service des trains du Pacifique-Canadien pour les abonnés de Lakeshore.

On pourrait noter en passant que le témoin, en choisissant le service précité qui était le plus favorable du point de vue des abonnés, n'a soumis aucun exposé dans le même sens concernant l'excédent des déboursés sur les recettes du service des trains du National-Canadien pour les abonnés de Lakeshore ni pour le service du tunnel du Mont-Royal ou tout autre service de trains pour abonnés dudit chemin de fer.

A ce propos, j'ai posé la question suivante qui a suscité la réponse suivante (Témoignages, page 5504, volume 951):

> "Le COMMISSAIRE EN CHEF: Q.—M. Knight, pour résumer votre témoignage en quelques mots, le but de vos pièces à l'appui est de démontrer que tout ce dont les chemins de fer ont besoin pour compenser leurs déboursés est une augmentation de 35 p. 100 au lieu d'une augmentation de 100 p. 100, n'est-ce pas?—R. Oui, monsieur, c'est cela même."

Ce n'est pas notre intention dans ce jugement intérimaire d'analyser les hypothèses servant de base à la pièce nº D-48, qu'à notre avis tout organisme impartial accepterait difficilement, mais il convient de relever que la réponse précitée implique qu'une augmentation de 35 p. 100 des taux d'abonnés est justifiée, même dans les circonstances mentionnées antérieurement.

Étant donné la façon dont se présente le cas à la lumière des renseignements maintenant en notre possession et, nous servant de notre propre jugement, nous avons la conviction que les autorités des chemins de fer ont prouvé le bien-fondé de leur demande concernant la première partie des ajustements projetés, c'est-à-dire la mise en vigueur des tarifs de l'annexe "A". En arrivant à cette conclusion il faudrait peut-être signaler que la Loi sur les chemins de fer ne contient ni définition ni modèle de ce qu'il faut considérer comme raisonnable et de plus que les déboursés ne sont pas le seul critérium de tarifs équitables et raisonnables. Bien que nous ne soyons pas encore en mesure de déterminer exactement l'écart qu'il en résultera entre les recettes et les déboursés, nous sommes convaincus que même si nous accordons aux abonnés le bénéfice de tout le doute qu'ils peuvent raisonnablement attendre de notre part, les recettes provenant des services de trains pour les abonnés aux tarifs de l'annexe "A" n'excéderont pour aucune des compagnies de chemin de fer, les déboursés réellement imputables au service de trains pour abonnés.

En effet, à moins d'une évolution nettement favorable des circonstances et des conditions, il est fort possible que le résultat final se traduise par un excédent des déboursés sur les recettes qui ne trouverait pas sa pleine compensation même si la mise en vigueur des tarifs de l'annexe "B" était autorisée.

Si cette dernière éventualité venait à se produire, il est bien évident et très compréhensible que les abonnés en ressentiront les effets sur leur budget, mais il ne devrait pas prendre par surprise quiconque est disposé à aborder en toute objectivité l'examen des problèmes élémentaires en cause, tels le prix de revient du transport par abonnements, et le stimulant financier dont les compagnies de chemin de fer ont besoin pour améliorer et étendre les services d'abonnés. Nous aurons plus tard l'occasion de signaler que les préoccupations du public des abonnés devraient être partagées par d'autres qui sont touchés par le problème chaque jour plus aigu de l'encombrement de la circulation dans les régions métropolitaines.

Les annexes de tarifs actuels permettent en moyenne des services de transport par abonnements non seulement sur les voyages réguliers, mais aussi sur des trains pour ainsi dire réservés aux abonnés, à un prix à peine supérieur à

1 cent par passager/mille. Le même service, ou un service amélioré, au prix approximatif de 2 cents par passager/mille, serait encore nettement moins cher que les tarifs courants applicables aux passagers.

En présentant leurs demandes d'augmentations dans les cas de tarifs-marchandises en général, les compagnies de chemin de fer, en se basant sur les exigences du Pacifique-Canadien, ont cherché à obtenir des augmentations qui, autant qu'on puisse le prévoir, couvriront non seulement les purs déboursés, comme c'est le cas de la présente demande, mais également la totalité des dépenses générales réparties proportionnellement, frais généraux, impôts et divers, et assureront de plus un revenu sur l'ensemble du capital investi dans les entreprises de transport ferroviaire, y compris les intérêts des titres de la dette, les montants consacrés au paiement des dividendes sur les actions ordinaires et les actions privilégiées, ainsi qu'un surplus raisonnable.

A notre point de vue les compagnies de chemin de fer, en offrant des tarifs d'abonnement calculés de manière à ne leur rapporter qu'une "arme de survie" leur permettant tout juste d'échanger un dollar neuf contre un vieux s'ils s'en tiennent à l'idée de la couverture des déboursés, offrent au public des abonnés une occasion d'obtenir plus en moyenne, pour le dollar qu'ils consacrent à leurs déplacements, que ce qu'ils peuvent se procurer pour la même somme auprès de presque toutes les autres entreprises commerciales, qu'elles soient publiques ou particulières.

J'ai posé à M. I. Warren, Directeur du trafic-passagers du Pacifique-Canadien (Témoignage, p. 5206, vol. 951) la question suivante:

> "Q. Dites-moi, au cours des 34 années que vous avez passées au service des chemins de fer, quelles modifications ont été apportées aux tarifs d'abonnements?—R. A peu près aucun, monsieur. Je pourrais, si vous voulez, en fournir quelques exemples, votre honneur... en 1920, un abonnement de 50 voyages entre Dorval et Montréal, qui était le meilleur marché de tous les abonnements que l'on pouvait prendre pour un mois, coûtait $4.25... Son prix actuel est de $4.60. Ce prix ne représente plus que 40 voyages qui correspondent maintenant à un abonnement d'un mois.
>
> Commissaire MATTHEWS: Q. Et le pouvoir d'achat de ce même dollar a sensiblement changé depuis cette époque?—R. Considérablement, monsieur le commissaire Matthews. Voyons Lakeside... en 1920, un abonnement de 50 voyages valait $5.50. Le prix actuel d'un abonnement de 40 voyages est de $5.95. Beaurepaire coûtait $8.08 en 1920, contre $8.70 de nos jours. Sainte-Anne est passé de $8.90 à $9.95. Vaudreuil a monté de $10.20 à $11.05. Como... n'oublions pas la patrie de M. Spence... qui était de $12.75 en 1920 atteint maintenant $13.75. Hudson Heights a passé de $14.00 à $15.10.
>
>
>
> Rigaud, qui coûtait $17.40 en 1920... vaut maintenant $18.80 pour un abonnement de 40 voyages.
>
> Tous ces exemples démontrent que les augmentations survenues en 34 ans ont été, si j'ose m'exprimer ainsi, "infinitésimales"."

L'avocat des abonnés a reconnu tout le caractère raisonnable du principe de base sur lequel les compagnies de chemin de fer ont appuyé leur demande, mais il s'en est pris aux compagnies de chemin de fer à propos de la manière dont elles ont cherché à mettre le principe en application. Avec vigueur et habileté, il a contesté par le détail les prévisions des compagnies quant à leurs déboursés et à leurs recettes, et il s'est efforcé de démontrer de bien des manières que les premiers étaient manifestement exagérés tandis que les dernières pouvaient être accrues de façon appréciable.

Les chemins de fer nationaux du Canada ont soumis à la commission une demande d'autorisation de supprimer leur service pour abonnés Lakeshore-Montréal-Vaudreuil. Ce service est un des éléments importants du réseau pour abonnés de cette région, et les chemins de fer nationaux ont déjà fourni certaines preuves à ce sujet. L'avocat de cette compagnie a toutefois déclaré à cet égard:

> "Nous nous rendons parfaitement compte qu'il nous faudra fournir de plus amples éléments de preuve. Nous demandons seulement à la commission, dans le cadre de la mission qui, à notre connaissance, l'occupe présentement, d'apporter une conclusion à cette affaire aussi rapidement que possible, car elle constitue une partie intégrante du problème pris dans son ensemble." (P. 6593 du plaidoyer, vol. 954.)

Nous considérons, nous aussi, qu'il nous faudra plus de preuves pour nous mettre à même de supputer les conséquences que la suspension envisagée, soit complète, soit partielle, aura sur les recettes et les dépenses des autres services pour abonnés de cette compagnie et du Pacifique-Canadien. Nous considérons également que ce qui précède et les autres questions laissées en suspens dans ce jugement intérimaire méritent une enquête plus approfondie avant qu'un jugement définitif puisse être rendu. D'autres audiences seront tenues sur ces questions avec toute la diligence permise par les circonstances.

Nous avons laissé entendre à plusieurs reprises au cours de l'audience que le souci du problème de l'encombrement de la circulation métropolitaine devrait être partagé par d'autres que les abonnés et les compagnies de chemin de fer seulement. A cet égard, l'avocat des abonnés a soumis les considérations suivantes (Témoignages, p. 4863, vol. 950):

> "Nous nous demandons si l'augmentation des tarifs d'abonnements est bien la meilleure solution au problème financier suscité par l'existence des services d'abonnés. Les compagnies de chemin de fer ont-elles fait des démarches auprès des autorités fédérales-provinciales, civiques et municipales et auprès des commissions pour solliciter leur collaboration dans la solution d'un problème social qui, en réalité, touche non seulement les abonnés mais encore tous les citoyens qui se déplacent, par la route ou par le rail à l'intérieur de la région qui nous préoccupe aujourd'hui.
>
> Ce que nous cherchons à exprimer est la notion suivante: pourquoi faut-il que les fonds versés par des millions de contribuables soient consacrés au soulagement de l'encombrement sur les grandes routes, sous forme de construction d'autostrades neufs et agrandis, alors que quelques milliers de dollars pourraient améliorer la situation hors de toute proportion avec les sommes qui sont actuellement dépensées.
>
> A défaut de cette manière d'aborder le problème, qui de toute évidence est négative, on ne peut que conclure à la suppression des services d'abonnements."

En réponse à une question de M. le commissaire Matthews, M. Warren a déclaré (Témoignages, p. 5221, vol. 951):

> "... c'est avec plaisir, naturellement, monsieur le commissaire Matthews, que nous accepterions une aide ou un appui quelconque—dans le genre de ce que fait en ce moment le Board of Trade de Toronto à propos du problème des abonnements dans cette grande ville. Nous serions prêts également à offrir à cet égard toute notre collaboration—et j'ai tout lieu de croire que les Torontois abonderont dans le sens de cette déclaration. Nous apprécierions une aide de cette nature, mais il n'y a encore eu, à ma connaissance, aucune initiative analogue à Montréal pour résoudre ce problème. Aucune proposition ne nous a été faite à ce sujet et nous ne savons pas à qui nous adresser, et nous l'apprécierions naturellement."

Un témoignage du même ordre fut donné par M. Whiteford, Directeur général du trafic voyageurs des chemins de fer nationaux du Canada, qui dit notamment:

> "... Il faut toutefois admettre que les compagnies de chemin de fer ne peuvent pas faire face à ce problème toutes seules, et je considère que sa solution incombe dans une plus large mesure aux communautés et aux provinces qu'aux compagnies de chemin de fer, mais nous tenons pour le moment le diable par la queue. Aussi, répété-je, ne pouvons-nous réaliser sans aide ce qu'il est nécessaire d'accomplir. Nous ne serons qu'une voix clamant dans le désert. Il nous faut absolument l'appui et des municipalités et de la province et de tout groupe ou individu touché par ce problème." (Témoignages, p. 5906, vol. 952.)

Il en résulte donc que les abonnés, les chemins de fer et la Commission se rendent compte que, par suite de la marche du temps et des événements, l'encombrement croissant des régions métropolitaines et des voies qui y mènent est une préoccupation qui ne touche plus seulement les abonnés, les chemins de fer et la Commission, mais que toute solution, pour être au moins partiellement couronnée de succès, requiert l'intérêt et l'aide des autorités gouvernementales et des autres organismes publics qui sont le plus directement touchés.

Depuis la clôture de l'audience, nous avons appris que le Comité exécutif de la cité de Montréal, de concert avec le Board of Trade, la Chambre de Commerce et l'Association canadienne des Manufacturiers a pris l'initiative de préparer un rapport sur le problème de la circulation sur l'île de Montréal, et qu'une étude préliminaire est déjà en préparation. Nous ne pouvons trop louer l'intérêt manifesté par ceux qui ont entrepris l'enquête que nous venons de mentionner, et lorsque ses résultats auront été déposés, ils seront examinés et discutés à fond par la Commission et les avocats des abonnés et des compagnies de chemin de fer.

Au lieu de rendre dès maintenant un jugement intérimaire, nous pourrions convoquer de nouvelles audiences tout en donnant à nos experts en économie et en exploitation le temps de terminer les nouvelles recherches qui les occupent actuellement à ce propos, et nous abstenir entre temps de rendre un jugement quelconque, mais comme nous considérons que nous sommes dès à présent, sans le secours de ces audiences et recherches supplémentaires, en mesure de répondre à ce qu'il conviendrait de nommer la "première phase" de la demande, nous croyons mieux satisfaire à la justice en tranchant sans plus attendre cet aspect du problème au moyen d'une ordonnance intérimaire en application de la procédure prévue à l'article 46, par. (2) de la Loi sur les Chemins de fer.

Nous sommes parvenus à cette décision intérimaire après avoir étudié tous les témoignages et les dépositions qui nous ont été soumis, mais nous ne pensons pas qu'il soit nécesaire pour le moment de faire un exposé détaillé des conclusions qu'elles ont inspirées.

En ce qui a trait à la date d'entrée en vigueur des nouveaux tarifs accordés par notre ordonnance intérimaire, bien que nous ayons reconnu au cours de l'audience qu'une augmentation des tarifs d'abonnements s'imposait sans conteste, nous pensons cependant que les abonnés ont droit à un préavis d'une durée raisonnable avant que les tarifs plus élevés n'entrent en vigueur. En conséquence nous abrogerons l'ordonnance nº 75234 et autoriserons les compagnies de chemin de fer qui le demandent à procéder au réajustement de leurs tarifs d'abonnements sans dépasser toutefois les tarifs établis à l'annexe "A" et en donnant au moins 30 (trente) jours de préavis. Une ordonnance sera rendue en conséquence. Cette ordonnance visera toutes les régions, à l'exception de la région de Toronto qui demeure sous l'autorité de notre ordonnance nº 84223 du 4 août 1954.

Demande présentée par la Compagnie de chemin de fer New York Central le 23 juin 1954

M. Cuthbert Scott, C.R., et M. Kenneth Lundmark étaient les avocats de la compagnie de chemin de fer dans la présente demande. M. Cauchon, député, et MM. Craik et Gilmour représentaient l'opposition.

Les avocats de la compagnie requérante sollicitèrent de la commission l'autorisation d'appliquer les tarifs des annexes "A" et "B" comme la demande en fait état et ne soulevèrent pas la question de nos pouvoirs.

Les conclusions auxquelles nous sommes parvenus au sujet de nos pouvoirs et sur la justification des tarifs proposés à l'annexe "A" conservent leur pleine portée à l'égard de la présente demande. Cette décision s'impose si l'on considère que le nombre des abonnés qui prennent chaque jour les trains de la compagnie requérante, entre Montréal et Valleyfield, a considérablement diminué d'année en année et n'est plus maintenant que de 227 environ, en face de plusieurs milliers de personnes qui voyagent en automobiles particulières et qui empruntent les services d'autobus.

L'ordonnance intérimaire qui sera rendue en application du présent jugement visera également la Compagnie de chemin de fer New York Central et ses filiales qui opèrent au Canada, sous réserve de la compétence de la commission, et la demande sera conservée pour plus ample étude en vue d'une décision définitive qui sera rendue ultérieurement.

J. D. KEARNEY.

J'agrée:

A. SYLVESTRE

J'agrée:

F. M. MACPHERSON

J'agrée:

H. B. CHASE

J'agrée:

O. A. MATTHEWS

OTTAWA, le 18 février 1955.

ANNEXE "A"

(Citée dans le jugement et l'ordonnance de la Commission du 18 février 1955)

Article 1—Taux de base

Nature du billet	*Taux du mille*	*Taxe minimum*
50 voyages	1.53c.	13.5c. par voyage
40 voyages (voyageurs ordinaires)	1.73c.	13.5c. par voyage
40 voyages (étudiants)	.77c.	13.5c. par voyage
20 voyages (billet de famille)	De 1 à 4 milles...Taxe minimum De 5 à 7 milles...3c. du mille 8 milles et plus...réduire de 35% la taxe du billet de 50 voyages.	13.5c. par voyage 13.5c. par voyage
10 voyages	3c. du mille	

Article 2—Taxes selon la distance

REMARQUE: Les colonnes A, B, D et E sont applicables aux voyageurs ordinaires; la colonne C vise les étudiants qui suivent régulièrement les cours d'un établissement scolaire et qui ont remis la formule 86 ou la formule 86B de l'Association Canadienne des Voyageurs.

	(A)	(B)	(C)	(D)	(E)
Parcours Aller en milles	Billets de 50 voyages	Billets de 40 voyages (voyageurs ordinaires)	Billets de 40 voyages (étudiants)	Billets de 20 voyages (de famille)	Billets de 10 voyages
	$ ¢	$ ¢	$ ¢	$ ¢	$ ¢
1	6.75	5.40	5.40	2.70	1.35
2	6.75	5.40	5.40	2.70	1.35
3	6.75	5.40	5.40	2.70	1.35
4	6.75	5.40	5.40	2.70	1.35
5	6.75	6.00	5.40	3.00	1.50
6	6.75	6.05	5.40	3.50	1.75
7	6.75	6.05	5.40	4.20	2.10
8	6.75	6.05	5.40	4.40	2.40
9	6.80	6.10	5.40	4.40	2.70
10	7.65	6.90	5.40	4.95	3.00
11	8.40	7.55	5.40	5.45	3.30
12	9.15	8.25	5.40	5.95	3.60
13	9.90	8.90	5.40	6.45	3.90
14	10.70	9.65	5.40	6.95	4.20
15	11.40	10 25	5.40	7.40	4.50

Article 2—Taxes selon la distance—Suite

REMARQUE: Les colonnes A, B, D et E sont applicables aux voyageurs ordinaires; la colonne C vise les étudiants qui suivent régulièrement les cours d'un établissement scolaire et qui ont remis la formule 86 ou la formule 86B de l'Association Canadienne des Voyageurs.

	(A)	(B)	(C)	(D)	(E)
Parcours Aller en milles	Billets de 50 voyages	Billets de 40 voyages (voyageurs ordinaires)	Billets de 40 voyages (étudiants)	Billets de 20 voyages (de famille)	Billets de 10 voyages
	$ ¢	$ ¢	$ ¢	$ ¢	$ ¢
16	12.20	11.00	5.40	7.95	4.80
17	12.95	11.65	5.40	8.40	5.10
18	13.80	12.40	5.45	8.95	5.40
19	14.45	13.00	5.85	9.40	5.70
20	15.30	13.75	6.15	9.95	6.00
21	16.05	14.45	6.35	10.45	6.30
22	16.80	15.10	6.75	10.90	6.60
23	17.55	15.80	7.05	11.40	6.90
24	18.35	16.50	7.35	11.95	7.20
25	19.05	17.15	7.65	12.40	7.50
26	19.85	17.85	7.95	12.90	7.80
27	20.60	18.55	8.25	13.40	8.10
28	21.45	19.30	8.55	13.95	8.40
29	22.10	19.90	8.90	14.35	8.70
30	22.95	20.65	9.15	14.90	9.00
31	23.70	21.35	9.45	15.40	9.30
32	24.45	22.00	9.80	15.90	9.60
33	25.20	22.70	10.05	16.40	9.90
34	26.00	23.40	10.40	16.90	10.20
35	26.70	24.05	10.70	17.35	10.50
36	27.50	24.75	10.95	17.85	10.80
37	28.25	25.40	11.30	18.35	11.10
38	29.10	26.20	11.60	18.90	11.40
39	29.75	26.75	12.00	19.35	11.70
40	30.60	27.55	12.20	19.90	12.00
41	31.35	28.20	12.50	20.40	12.30
42	32.10	28.90	12.90	20.85	12.60
43	32.85	29.55	13.10	21.35	12.90
44	33.65	30.30	13.50	21.85	13.20
45	34.35	30.90	13.80	22.35	13.50
46	35.15	31.65	14.00	22.85	13.80
47	35.90	32.30	14.40	23.35	14.10
48	36.75	33.05	14.70	23.90	14.40
49	37.40	33.65	15.00	24.30	14.70
50	38.25	34.40	15.30	24.85	15.00

Ordonnance nº 85599

VENDREDI, le 18e jour de février, A.D. 1955.

En ce qui concerne la requête de l'Association canadienne des voyageurs, en date du 13 mai 1954, et des lignes ferroviaires y mentionnées qui en font partie, et la requête de la Compagnie de chemin de fer New York Central et de ses filiales exploitant au Canada, en date du 23 juin 1954, demandant une ordonnance rescindant l'ordonnance nº 75234, datée du 22 septembre 1950, sujet: billets d'abonnement.

Dossier nº 29984.18

L'honorable Juge JOHN D. KEARNEY, *Commissaire en chef*

A. SYLVESTRE, C.R., *Commissaire en chef suppléant*

F. M. MACPHERSON, *Commissaire*

H. B. CHASE, C.B.E., *Commissaire*

O. A. MATTHEWS, *Commissaire*

Après avoir entendu l'affaire aux audiences de la Commission à Montréal et à Ottawa, en novembre et décembre 1954, en présence de l'avocat des compagnies de chemin de fer requérantes, certaines municipalités de banlieue de Montréal et la Cité de Montréal et d'autres personnes et après avoir pris en considération les avis et arguments déposés—

IL EST ORDONNÉ

1. Que l'ordonnance nº 75234, datée du 22 septembre 1950 soit, et est par les présentes, rescindée.

2. Que les compagnies de chemin de fer requérantes peuvent, dans toutes les régions d'abonnement autres que la région de Toronto, ajuster leurs tarifs pour le trafic passager d'abonnés en conformité du jugement intérimaire annexé aux présentes en date du 18e jour de février 1955.

HUGH WARDROPE,
Commissaire en chef adjoint.

In the matter of the application of the Fresh Fruit and Vegetable Receivers Association of Montreal, under Section 52 and all other relevant sections of the Railway Act, requesting the Board:

(a) to review the Judgment herein dated July 9, 1954, and Order No. 84121, dated July 14, 1954, issued in pursuance thereof;

(b) to vary and change the said Judgment by deciding that the $11.00 charge referred to therein is a charge which is in part in respect of the perishable team tracks and the traffic thereon, and that the Board has jurisdiction to determine whether the said charge is illegal and whether it is unreasonable;

(c) to vary the said Order accordingly, and

(d) to grant such further and other relief as to the Board may seem just and proper.

File No. 26792·17·4

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Heard at:

OTTAWA, Ontario, on February 2, 1955.

Appearances:

Mr. H. E. B. COYNE, Q.C., for the Fresh Fruit and Vegetable Receivers Association of Montreal.

Mr. J. W. G. MACDOUGALL, for the Canadian National Railways.

Hon. THOS. VIEN, P.C., Q.C., for the Montreal Fruit & Produce Terminal Company Limited.

JUDGMENT

WARDROPE, Assistant Chief Commissioner:

In its Judgment of July 9, 1954, the Board found as a question of fact and for the reasons given that an $11.00 charge made by the Montreal Fruit and Produce Terminal Company Limited to members of the Fresh Fruit and Vegetable Receivers Association of Montreal, neither in whole nor in part was a toll within the meaning of the Railway Act.

Following this decision, the Fresh Fruit and Vegetable Receivers Association of Montreal (hereinafter sometimes referred to as the "Applicant") made the following application to the Board:

> "The Fresh Fruit and Vegetable Receivers Association of Montreal hereby applies to the Board under Section 52 and all other relevant sections of the Railway Act and requests the Board (a) to review the judgment herein dated July 9th, 1954, and Order No. 84121 dated July 14th, 1954, issued in pursuance thereof; (b) to vary and change the said judgment by deciding that the $11.00 charge referred to therein is a charge which is in part in respect of the perishable team tracks and the traffic thereon, and that the Board has jurisdiction to determine whether the said charge is illegal and whether it is unreasonable; (c) to vary the said Order accordingly; and (d) to grant such further and other relief as the Board may seem just and proper.

This application is made upon the following among other, grounds:—

1. The decision contained in the said judgment that the charge of $11.00 is solely for the use of and the right to use the privileges and facilities of the terminal building and leased premises other than the tracks, and is not in any way in respect of the tracks or otherwise for railway services, is against the evidence and the weight of evidence and is contrary to the statements and contentions of counsel for all parties hereto.

2. Hon. Mr. Vien, Counsel for the respondent Montreal Fruit and Produce Terminal Co. Ltd., said as reported on page 2158 of the transcript of the proceedings at the hearing:—

> 'The placing of the cars on the company's tracks means renting the use of the tracks in the fruit terminal for a period of three, four or five days, with all the incidental other advantages that the user derives—for instance, taking samples out of his car and exhibiting them to purchasers on the sample floor of the building. Therefore, for the $11.00 charge he enjoys the use of the track facilities that have been leased to the Fruit Terminal Company'.

and Mr. Macdougall, Counsel for the respondent Canadian National Railways said as reported on pages 2239 and 2240 of the transcript of the proceedings at the hearing:—

> 'It was clearly upon the evidence, I suggest, contrary to the contention of the Applicants, that this $11.00 was charged for certain benefits which the carlot receiver of fruit obtained at the Terminal and for the placement of the car upon the Terminal Company's tracks.
>
> I suggest the Terminal Company is quite within its rights to make a charge if it wishes to for the use of its tracks'.

In view of these statements, counsel for the applicant did not submit any argument that the charge of $11.00 was in part in respect of the tracks and it is respectfully submitted that counsel for the applicant were entitled to assume that the point was admitted, and that no argument was necessary. The applicant therefore requests that it should be granted a review by the Board in order that the applicant should have the opportunity to present argument on the point referred to."

At the hearing held in Ottawa on February 2, 1955, Counsel for the Applicant reviewed the evidence from the transcript of proceedings of the first hearing of several of the witnesses on both sides. He drew to the attention of the Board statements made by them on several occasions in the transcript to the effect that the $11.00 charge (formerly $6.00 and then $9.00) was for the placing of cars on the perishable tracks or on the unloading tracks. And as in the application above set forth, he also drew the Board's attention to the statements and language of both opposing counsel. The inference to be drawn from the review of the evidence from the transcript by the Applicant's Counsel is that in reaching its decision the Board overlooked such evidence with regard to "placement" or did not comprehend its significance. This, of course, was not the case. The Board was fully aware of and gave much consideration to the opinions of the witnesses as to what the $11.00 charge was for. It was also fully aware of the Applicant's contention that the $11.00 charge was in whole or in part a toll for the placement of a car and so stated in its judgment. It was also conscious of the language of opposing counsel above referred to. But regardless of what interpretation such language may be susceptible of, the Board must give precedence to the facts as it sees them, which it did in its judgment.

The Board has stated: "Cases are not re-opened unless doubt has arisen in the minds of the Board as to the correctness of the first conclusion by reason of new matter advanced on an application to re-open, or otherwise as to the soundness of the first conclusion, or when new evidence on a material issue can be presented".

(1) *American Coal* v. *M.C.R.*, 21 C.R.C. 15 at page 24; (2) *Canada Rice* v. *C.F.A.*, 36 C.R.C. 91.

No new matter has been advanced nor has any new evidence on a material issue been presented by the Applicant. However, the hearing on February 2nd has given Counsel for the Applicant the opportunity to present further argument and also an opportunity to the Board to review the soundness of its first decision.

Under all the circumstances, I am of the opinion the application must fail.

HUGH WARDROPE.

March 2, 1955.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 85676

In the matter of the application of the Fresh Fruit and Vegetable Receivers Association of Montreal, under section 52 and all other relevant sections of the Railway Act, requesting the Board: (a) to review the Judgment herein, dated July 9, 1954, and Order No. 84121, dated July 14, 1954, issued in pursuance thereof; (b) to vary and change the said Judgment by deciding that the $11.00 charge referred to therein is a charge which is in part in respect of the perishable team tracks and the traffic thereon, and that the Board has jurisdiction to determine whether the said charge is illegal and whether it is unreasonable; (c) to vary the said Order accordingly, and (d) to grant such further and other relief as to the Board may seem just and proper.

File No. 26792·17·4

WEDNESDAY, the 2nd day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Ottawa, Province of Ontario, on February 2, 1955, in the presence of Counsel for the Fresh Fruit and Vegetable Receivers Association of Montreal, the Canadian National Railways and the Montreal Fruit & Produce Terminal Company Limited—

It is ordered that the said application be, and it is hereby, dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

In the matter of the application of Canadian National Railways for an Order granting it leave to abandon the operation of its Scotia Subdivision in Pictou County, Nova Scotia, between mile 3·00 and mile 8·24.

File No. 39310·61

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Heard at:

Stellarton, Nova Scotia, on February 8, 1955.

Appearances:

J. W. G. MACDOUGALL, W. H. HEWSON and H. J. G. PYE, for the Canadian National Railways.

HENRY G. FERGUSON, Councillor, Pictou Landing, N.S., for the Residents of Pictou Landing.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner.

CHASE, Commissioner.

History

Shortly after the application in this case was received by the Board, Mr. Henry G. Ferguson, Councillor for Pictou Landing, filed with the Board a petition with an accompanying letter requesting that the application be denied. This petition was considered but we are of the opinion that it does not outweigh the evidence submitted by the Applicant.

Subsequently, an Inspector from the Board's Operating Department conducted a thorough investigation, had interviews with a number of interested parties and in his report noted, *inter alia*, that there is a paved highway from New Glasgow to Pictou Landing, a good secondary road which serves the other communities, a good bus service operating between New Glasgow and Pictou Landing, which is more convenient to the public than the train service and is well patronized, and that very few passengers are carried on the portion of the line the railways propose to abandon. After considering this report and in view of the objections made by Mr. Henry G. Ferguson, it was decided to put the matter down for hearing.

The hearing was held in Stellarton, Nova Scotia, on February 8, 1955 and we are indebted to Counsel for the railways for putting on the record the historical background of the line of railway involved in the application. Mr. Macdougall stated at pages 245, 246, 247 and 248 of the transcript:

> "May it please the Board: In order to explain briefly the nature of this application to abandon a portion of the Scotia Subdivision, I think it might be interesting for the Board if I were to refer briefly to the historical background of this line of railway, and if you will permit me, I would like to read a short summary of this history which I have prepared from the official statutes of Canada and of the Province of Nova Scotia and also from studies made of those statutes by Mr. Norman Dorman in his book dealing with the Statutory History of Railways in Canada.

The construction of a railway by the Nova Scotia Government from Halifax to Pictou Harbour was authorized on March 31st, 1854, by virtue of an Act of the Province of Nova Scotia known as Act 17 Victoria Chapter I. You will note the date, 1854, how early and how long ago, 101 years, this line was originally provided for by statute.

The first sod of the Nova Scotia Railway, which was the first railway constructed in the province, was turned at Richmond on June 13, 1858. The railway was completed to Truro by December 15th, 1858, and authority to construct an extension of the railway from Truro to Pictou Harbour, and from Truro to the frontier of New Brunswick was given in 1864 by virtue of another act of the Province of Nova Scotia, 27 Victoria, Chapter 6.

The extension to Pictou Harbour was contracted for and after considerable difficulties with the contractors, which was common, I understand, in railway building in the old days, Sanford Fleming, who afterwards was Sir Sanford Fleming, took over the construction work of this line and he completed it to Pictou Landing on May 31st, 1867, and that work includes this portion of five miles of the Scotia Subdivision between mile 3.00 and 8.24, which we are going to speak about today in the matter of the abandonment.

It should be noted that the first line to Pictou Harbour did not run into Pictou Town itself but ran to Pictou Landing on the east side of the Harbour, and a provision was made for a ferry service to the Town. A branch from Stellarton to Pictou Town was not built until some time after Confederation.

When the British North America Act came into force, which was the confederation statute, the nucleus of the New Canadian Government Railways had been established. It consisted of the Nova Scotia lines, Halifax to Truro and Pictou Landing, and the branch to Windsor, and the New Brunswick line from Saint John to Shediak, which was the old European and North America Railway.

In 1877 authority to transfer the Truro to Pictou branch of the railway to the Halifax and Cape Breton Railway and Coal Company was granted by virtue of 40 Victoria Chapter 46. That was a turning back from the government to a Nova Scotia Company of this portion of the line of railway between Truro and Pictou Landing, which includes the portion we are speaking of today. And later, in 1883, five years later, the Nova Scotia Government took over the Halifax and Cape Breton Railway and Coal Company. I suppose it went into difficult times and it was taken over by the Nova Scotia Government, including this line of railway to Pictou Landing, and it was known then as the Nova Scotia Railways.

Also in that year, 1883, by virtue of Order-in-Council known as P.C. 2483, dated December 22nd, 1883, authority was given for the Dominion Government to purchase the Pictou Landing Railway from the Nova Scotia Government. I suppose someone in this section here was successful in persuading someone in Upper Canada to take over the management and operation of this line.

Finally, in 1884, by virtue of both the Nova Scotia and Canadian Acts of the Parliament and of the Legislature of Nova Scotia, this Order-in-Council was confirmed for purposes of sale and in the same year the line was taken over by the Government of Canada. These lines had by this

time become known as the Intercolonial Railway and when Canadian National Railways, as we know it today, was formed by amalgamation of the Grand Trunk and the Canadian National railway company, the Intercolonial Railway, as it is still known, was placed by the Federal Government under the charge of Canadian National Railways for management and operation, and that is the position of this line of railway today. It is a portion of the Canadian Government Railways and it is managed and operated under the authority of Order-in-Council P.C. 135 (115) as part of the Canadian National Railways."

We turn now to the exhibits and evidence submitted during the hearing.

For the railways, eight exhibits were submitted showing revenues, expenses and losses for the years 1950, 1951, 1952, and 1953, inclusive, also including an estimate of losses incurred in 1954. As a general policy, the Board requires the railways to submit figures showing revenues and expenses for three years. It will be noted in this case that the figures relate to five years.

The revenues, expenses and losses for the years 1950, 1951, 1952 and 1953 are summarized in Exhibit 7 reproduced below, followed by Exhibit 8, which shows the estimated loss for the year 1954.

EXHIBIT No. 7: CANADIAN NATIONAL RAILWAYS

Loss Incurred on Scotia Subdivision, Mile 3·0 to Pictou Landing, N.S. 1950-1953 Both Inclusive

Systems Revenues	*1950*	*1951*	*1952*	*1953*
Passenger	$ 1,579	$ 862	$ 359	$ 1,052
Freight	6,639	3,352	19	
Express	386	275	151	1
Miscellaneous	822	860	831	851
Total	$ 9,426	$ 5,349	$ 1,360	$ 1,904
Expenses (out-of-pocket)				
Branch Line				
Mtce. of Way and Structures	$10,212	$13,320	$14,719	$16,113
Train Service	3,829	4,264	4,719	4,872
Mtce. of Equipment	3,939	3,166	3,755	4,225
Station Service	3,116	3,045	1,265	*....
Off-Line Expenses				
50% Op. Ratio on Frt. & Express	1,700	880	46	
Total	$22,796	$24,675	$24,504	$25,210
System Loss	$13,370	$19,326	$23,144	$23,306

* Agency closed.

Montreal, Quebec, February 2, 1955.

EXHIBIT No. 8: CANADIAN NATIONAL RAILWAYS

Estimate of Loss Incurred on Scotia Subdivision, Mile 3·0 to Pictou Landing, N.S.—1954

System Revenues	*1954*
Passenger	$ 800
Freight	908
Express	...
Miscellaneous	792
Total	* $ 2,500

Expenses (out-of-pocket) *Branch Line*	(estimated)
Mtce. of Way and Structures	$16,000
Train Service	4,682
Mtce. of Equipment	4,200
Station Service	Nil
Off-Line Expenses	
50% Ratio on Freight and Express	313
Total	$25,195
System Loss	$22,695

* Estimate based on January to October (incl.) actual.

Montreal, Quebec, February 2, 1955.

At this point we should note that in the examination of Witness Hoganson with respect to these exhibits, the fact was brought out that the expenses were reduced to the minimum. No charges were made for supervision, depreciation, etc. On the revenue side, credit was given for the earnings from the branch line as related to the Canadian National Railways as a system that is to say, if a carload of freight originated at Pictou Landing destined to Vancouver, the total revenue accruing to the Canadian National Railways as a system is taken into account.

This appears to us as being the correct manner in which to determine the value of a branch or feeder line to the main line or system. It is possible that a branch or feeder line could show a heavy loss when considering the revenue and expenses allocated thereto and at the same time show a considerable profit to the system as a whole.

The line in question is what is termed "Class E" track, the lowest class in the category, and in evidence it was submitted that maintenance of the line had been deferred, only enough having been performed to permit safe operation for the traffic moving, and to maintain the line to Class E would in the next ten years require a maintenance expenditure of approximately $50,000.

By totalling the losses for the years 1950, 1951, 1952 and 1953, plus the estimated losses for the year 1954, we find that in the operation of the line in question the Canadian National Railways, during the five-year period, suffered a loss of $101,841.

If the line were kept in operation and the above mentioned deferred maintenance were taken care of, it can be readily seen that the losses in future years would in all probability be greater than in the past years. To put it another way, from what was submitted to us, there does not appear to be any hope for the future, nor any good reason why the application should not be granted.

The opponents of the application were represented by Mr. Henry G. Ferguson, Councillor for Pictou Landing. He questioned the right of the railways to abandon the operation of the line and the jurisdiction of the Board to grant the application. He submitted that Section 145 of the British North America Act, 1867, 30 Vict., C. 3, provided for the construction and continued operation of the railway therein mentioned and that it included the line in question; therefore, it was beyond the competence of the Parliament of Canada to pass legislation to enable the operation of the line to be abandoned. Putting it another way, his objection was as to the validity of the legislation under which the Board is asked to grant the application. Our comments with respect to the position taken by Mr. Ferguson will appear later in this judgment.

Mr. Ferguson gave no assurance, nor did he express any hope that the railways would in the future regain the traffic it is quite evident is now being moved by other forms of transport.

Summary:

The Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines. The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involved would impose upon the railways.

Here we would refer to some previous decisions of the Board:

(1) C.N.R. Tweed Subdivision, year 1941, 53 C.R.C., p. 139. Abandonment of operation of the Tweed Subdivision between Yarker and Tweed, Ontario, a distance of 33.94 miles. System saving if line abandoned $22,203. Application granted.

(2) C.N.R. Lakefield Subdivision, Ontario, year 1951, 66 C.R.C., p. 344. Abandonment of operation of 16.24 miles. System saving if line abandoned $31,392. Application granted.

(3) C.N.R. Westport Subdivision, Ontario, year 1952, 69 C.R.C., p. 136. Abandonment of operation of 40.51 miles. System saving if line abandoned $83,035. Application granted.

(4) C.N.R. Algonquin Subdivision, Ontario, Board's file No. 39310.17. Judgment dated January 17, 1955, not yet reported in C.R.C. Application to abandon 39.95 miles of the Algonquin Subdivision. System saving if line abandoned $97,109. Application granted.

In this present case the mileage to be abandoned is 5.24 miles, with a system saving somewhat in access of $20,000 per annum.

Considering the decisions in the cases mentioned above, the substantial loss to the railways and all that was presented to the Board at the hearing, we believe that the application for abandonment is justified. The losses to the railways outweigh the loss and inconvenience to the public

Returning now to the argument advanced by Mr. Henry G. Ferguson, Councillor for Pictou Landing, the legal point he raised has been referred to the Board's Counsel, Mr. R. Kerr, and his comment, with which we agree, is as follows:

"Section 145 was passed as follows:

'145. Inasmuch as the Provinces of Canada, Nova Scotia and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.'

It may be noted here that section 145 was expressly repealed by the Statute Law Revision Act, 1893, 56 Vict. c. 14, subject to the provisions of that Act.

The line in question became part of the Canadian Government Railways and eventually by P.C. No. 115, dated January 20, 1923, was entrusted under the provisions of the Canadian National Railways Act, 1919, c. 13, now c. 40 R.S.C. 1952, to the Canadian National Railway Company in respect of the management and operation thereof and is so entrusted at the present time.

Section 15(1) of the Canadian National Railways Act is as follows:

'15. (1) Notwithstanding anything in the Government Railways Act or any other Act, the provisions of the Railway Act respecting the construction, maintenance and operation of a railway (excepting those relating to the location of lines of railway, the making and filing of plans and profiles—other than highway and railway crossing plans—and the taking and using of lands and expropriation proceedings) apply to any Canadian Government railway that would, but for the passing of this Act, be subject to the Government Railways Act, but only for the period during which the management and operation of that railway is entrusted to the Company under the provisions of this Act.'

Section 168 of the Railway Act, c. 234 R.S.C. 1952, is as follows:

'168. The company may abandon the operation of any line of railway with the approval of the Board, and no company shall abandon the operation of any line of railway without such approval.'

Section 2(3) of the Canadian National-Canadian Pacific Act, c. 39, R.S.C. 1952, is as follows:

'(3) Notwithstanding anything in this Act or in any other Act any railway company may abandon the operation of any line of railway with the approval of the Board of Transport Commissioners for Canada, and no railway company shall abandon the operation of any line of railway without such approval.'

As to the validity of the legislation above mentioned passed by the Parliament of Canada, the Board has decided in several cases that it would not appear to be the function of the Board to pass upon the constitutionality or validity of such legislation. See Auger & Son and D'Auteuil

Lumber Co. v. Grand Trunk and Canadian Pacific Railway Companies, 19 C.R.C. 401; Bell Telephone v. Ottawa, 22 C.R.C. 421; Re Trans Northern Pipe Line Company, 41 J.O.R. & R. 229, and C.N.R. v. Petitcodiac, 44 C.R.C. 29. In fact, in the last mentioned case, a similar submission to that made by Mr. Ferguson as to the continuing force of the British North America Act, 1867, was put forward. My opinion is that the Board has jurisdiction in the matter."

We consider that we should not decline to exercise the jurisdiction that the Parliament of Canada has conferred on the Board by the above mentioned provisions.

The application is approved and Order will go accordingly.

A. SYLVESTRE.

H. B. CHASE.

March 8, 1955.

ORDER No. 85732

In the matter of the application of the Canadian National Railways for an Order granting them leave to abandon the operation of their Scotia Subdivision in Pictou County, Nova Scotia, between mile 3.00 and mile 8.24:

File No. 39310.61

WEDNESDAY, the 9th day of March, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application of a sittings of the Board held in Stellarton, Nova Scotia, on February 8, 1955, in the presence of Counsel for the Canadian National Railways and a representative of the residents of Pictou Landing—

It is ordered that the Canadian National Railways be, and they are hereby granted leave to abandon the operation of their Scotia Subdivision in Pictou County, Nova Scotia, between mile 3.00 and mile 8.24.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 806

In the matter of regulations respecting the installation and changes to automatic block signal systems, traffic control systems, and station protection signals:

File No. 45417

FRIDAY, the 18th day of February, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered

1. That the following regulations respecting the installation and changes to automatic block signal systems, traffic control systems, and station protection signals be, and they are hereby prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada.

2. That the said regulations apply to new installations only and do not apply to existing installations made prior to the date of this Order.

3. That General Order No. 736, dated the 4th day of January, 1950, be, and it is hereby rescinded.

REGULATIONS IN RESPECT TO INSTALLATION AND CHANGES TO AUTOMATIC BLOCK SIGNAL SYSTEMS, TRAFFIC CONTROL SYSTEMS, AND STATION PROTECTION SIGNALS

1. Without the approval of the Board no company shall install or make any major change in automatic block signal systems, traffic control systems, or station protection signals.

2. With the application for such approval the company shall send to the Secretary of the Board three sets of a combined plan and profile, showing tracks, gradients and alignments for the territory on which the signals are to be installed, and with the location for proposed signals shown thereon.

3. Definitions and symbols approved by the Signal Section of the Association of American Railroads shall apply for the purpose of these requirements.

4. The apparatus shall, so far as possible, be so installed and circuits so arranged that failure of any part of the system affecting the safety of train operation will cause all signals affected to give the most restrictive indications which conditions require.

5. Signals shall be located preferably to the right of and next to the track they govern.

6. Signal aspects shall be shown by the position of semaphore blades, position of lights, colour of lights, flashing of lights or any combination thereof. They may be qualified by marker plate, number plate, letter plate, marker light, shape and colour of semaphore blade, or any combination thereof subject to the following conditions:

(*a*) Night aspects of roadway signals, except qualifying appurtenances, shall be shown by lights, day aspects by lights or semaphore arms. A single white light shall not be used.

(*b*) Reflector lenses or buttons or other devices which depend for visibility upon reflected light from an external source shall not be used in night aspects, except qualifying appurtenances.

(*c*) The aspects of cab signals shall be shown by lights or by illuminated letters.

(*d*) Each aspect displayed by a signal shall be identified by a name and shall indicate action to be taken. Only one name and indication shall apply to those aspects indicating the same action to be taken. The same aspect shall not be used with any other name and indication.

7. The fundamental indications of signal aspects shall conform to the following:

(*a*) A red light or a series of horizontal lights or a semaphore blade in the horizontal position shall be used to indicate stop.

(*b*) A yellow light or a series of lights or a semaphore blade in the upper quadrant at an angle of approximately 45° to the horizontal, shall be used to indicate that speed is to be reduced and a stop may be required.

(*c*) A green light, a series of vertical lights or a semaphore blade in the vertical position shall be used to indicate proceed at authorized speed.

8. Each signal shall be located with respect to the next signal or signals in advance which govern train movements in the same direction so that the indication of a signal displaying a restrictive aspect can be complied with by means of a brake application, other than an emergency application, initiated at such signal, either by stopping at the signal where a stop is required, or by a reduction in speed to the rate prescribed by the next signal in advance where reduced speed is required.

9. If an arm of a semaphore signal assumes a false restrictive position or if a lamp in a light signal fails, the signal shall not display a less restrictive aspect than intended.

10. On track signalled for movements in both directions a train shall cause one or more opposing signals immediately ahead of it to display an aspect requiring a stop. On such track signals shall be so arranged and controlled that if opposing trains can simultaneously pass signals displaying proceed aspects, and the next signal in advance of each such signal then displays an aspect requiring a stop, the distance between the opposing signals requiring a stop shall be not less than the aggregate of the stopping distances for train movements in each direction. Where such opposing signals are spaced stopping distances apart for train movements in one direction only, signals arranged to display restrictive aspects shall be provided in approach to at least one of the signals. Where such opposing signals are spaced less than stopping distance apart for train movements in one direction, signals arranged to display restrictive aspects shall be provided in approach to both such signals.

11. Signals shall be automatically controlled by continuous track circuits extending through the entire block, excepting as otherwise permitted.

12. Signal control circuits shall be so installed that each signal governing train movements into a block will display its most restrictive aspect when any of the following conditions obtain within the block:

(*a*) When it is occupied by a train, locomotive or car;

(*b*) When points of a switch are not closed in proper position;

(c) When an independently operated fouling point derail equipped with switch circuit controller is not in derailing position;

(d) When a track relay is in de-energized position;

or

(e) When signal control circuit is de-energized.

13. Track relay shall be in de-energized position wherever any of the following conditions exist, and the track circuit of an automatic train stop, train-control or cab-signal system shall be de-energized in the rear of the point where any of the following conditions exist:

(a) When a rail is broken or a rail or switch frog is removed, except when a rail is broken or renewed in the shunt fouling circuit of a turnout or crossover, provided, however, that shunt fouling circuit may not be used in a turnout through which permissible train speed is greater than forty-five miles per hour. It shall not be a violation of this requirement if a track circuit is energized when a break occurs within the limits of the joint bars or rail-joint bond or as a result of leakage current or foreign current in the rear of a joint where a break occurs or a rail is removed; protecting signals shall be arranged to display their most restrictive indication and immediate steps taken to correct such condition when found;

(b) When a train, locomotive or car occupies any part of a track circuit, including fouling section of turnout, except turnouts of a hand-operated main track crossover. It shall not be a violation of this requirement where the presence of sand, rust, dirt, grease or other foreign matter on the rail prevents effective shunting;

(c) Where switch shunting circuit is used;

(1) Switch point is not closed in normal position;

(2) Switch is not locked where facing point lock with circuit controllers is used; or

(3) An independently operated fouling-point derail equipped with switch circuit controller is not in derailing position.

14. Signal control and electric locking circuits shall not be selected through the contacts of instruments designed primarily for indicating or annunciating purposes in which an indicating element attached to the armature is arranged so that it can in itself cause improper operation of armature.

15. The battery or power supply for each signal control relay circuit, where an open-wire circuit or a common return circuit is used, shall be at the end of the circuit farthest from the relay.

16. A signal governing movements over hand-operated switch shall display its most restrictive aspect when the normally closed point of a facing point switch is open one-quarter inch or more or when the normally closed point of a trailing point switch is open three-eighths inch or more, except that where a separate aspect is displayed for movements over the facing point switch in the normal and in the reverse position the signal shall display its most restrictive aspect when the switch points are open one-fourth inch or more from the normal or the reverse position.

17. The control circuits of signals governing movements over a main track facing point spring switch shall be selected through the contacts of a switch circuit controller or through the contacts of relay repeating the position of

such circuit controller which, when normally closed switch point is open one-fourth inch or more, will cause such signals to display their most restrictive aspects except that where a separate aspect is displayed for such movements over the switch in the reverse position the signal shall display its most restrictive aspect when the switch points are open one-fourth inch or more from the normal or the reverse position.

18. Indication of signal governing movement from siding to main track over a spring switch or governing movements against current of traffic from reverse main of main tracks to single track over a spring switch shall be Stop when, on signalled track, a train is approaching within 1,500 feet in rear of approach signal located stopping distance from the main track signal governing trailing movements over the switch, except that indication may be caused to be less restrictive if approach or time locking is used.

19. Electric locks on new installations and new electric locks applied to existing installations shall be of the forced drop type, or the equivalent.

20. Where non-coded or non-reversible track circuits are in use and where energy to one track circuit is supplied through the front contacts of an adjoining track relay, the energy circuit to such track circuit shall be open and the track circuit shunted when such relay is in de-energized position.

21. Fouling section of turnout shall extend to clearance point.

22. The length of any track circuit, except trap-circuit or special circuit not used for control of signal facilities, shall be greater than the maximum inner wheel base of any locomotive or car.

23. Where a dead section exceeds thiry-five feet special circuit shall be installed. Where shortest outer wheel base of a locomotive operating over such dead section is less than thirty-five feet the maximum length of the dead section shall not exceed the length of the outer wheel base of such locomotive unless special circuit is used.

24. Signal wires carried on pole lines shall be securely tied in on insulators.

25. Insulated wires shall be protected from mechanical injury. The insulation shall not be punctured for test purposes. Splice in underground wire shall have insulation resistance at least equal to the wire spliced.

26. Wires shall not interfere with operating parts of mechanisms.

27. Each wire shall be tagged, or otherwise marked, so it can be identified at each terminal board where practicable. Nomenclature shall correspond to that of the circuit plan. Tags or other marks of identification in instrument cases and apparatus housings shall be made of insulating material and shall not interfere with moving parts of apparatus.

28. Lightning arresters shall be properly connected. Where grounded the resistance to ground preferably should not exceed 25 ohms.

29. Track shunt wires and fouling wires, except shunt wires to switch circuit controller through which signal control circuits are controlled and track circuits are shunted, shall consist of at least two conductors and each conductor shall be of sufficient conductivity and maintained in such condition that the track relay will be in de-energized position when the circuit is shunted.

30. At hand-operated crossover between main tracks protection shall be provided by one of the following:

(*a*) An arrangement of one or more track circuits and switch circuit controllers;

(*b*) Facing point locks on both switches of the crossover, with both locks operated by a single lever; or

(*c*) Electric locking of the switches of the crossover.

31. Signals governing movements over either switch shall display their most restrictive aspect when any of the following conditions exist:

(*a*) Where protection is provided by one or more track circuits and switch circuit controllers, and either switch is open or the crossover is occupied by a train, locomotive or car in such a manner as to foul the main track. It shall not be a violation of this requirement where the presence of sand, rust, dirt, grease or other foreign matter on the rail prevents effective shunting;

(*b*) Where facing point locks with a single lever are provided and either switch is unlocked; or

(*c*) Where the switches are electrically locked, before the electric locking releases.

32. The electric lock on hand-operated switch shall be controlled so that it cannot be unlocked until control circuits of signals protecting such switch have been opened. Approach or time locking shall be provided.

33. Signals controlled by devices used to provide protection against unusual contingencies such as landslides, dragging equipment, burned bridge or trestles, and washouts, shall be located so that stopping distance will be provided between the signal and the point where it is necessary to stop a train.

34. Measures shall be taken to prevent recurrence of an aspect displayed by a light signal, different from the aspect intended, caused by light from an external source being reflected by the optical system of the signal.

35. Outdoor signal and instrument cases shall be locked.

36. The normal functioning of any device shall not be interfered with in testing or otherwise without first taking measures to insure safety of train operation which depends on the normal operation of such device.

37. Switch circuit controllers, facing-point locks and switch-and-lock movements and their connections shall be securely fastened in place, and contacts provided with an opening of not less than one-sixteenth inch when open.

38. Circuit controller operated by switch-and-lock movement shall be provided so that normally open contacts will remain closed and normally closed contacts will remain open until the switch is locked.

39. Track circuit shall be provided so that track relay will be in de-energized position if, when track circuit is dry, a shunt of 0.06 ohms resistance is connected across the track rails of the circuit, including fouling sections of turnouts.

40. Insulated rail joints shall be installed so as to prevent sufficient track circuit current from flowing between the rails separated by the insulation to cause a failure of any track circuit involved.

Additional Regulations Applicable to Traffic Control Systems

41. The control circuit for signals governing movements at higher than restricted speed over switches, movable-point frogs and derails shall be selected through circuit controllers operated directly by the point of such switch, frog, or derail, or by switch-locking mechanism or through relay controlled by such circuit controller, for each switch, movable-point frog and derail in the route governed by such signals. Circuits shall be so arranged so that such signals can display an aspect to proceed only when each switch, movable-point frog and derail in the route is in proper position.

42. Indication locking shall be provided for power-operated interlocking signals, power-operated switches, movable-point frogs and derails, and for all approach signals, except light signals, all aspects of which are controlled by track circuits, or by line circuits which do not include a common return circuit.

43. A power-operated approach signal shall be provided on the main track to govern the approach with the current of traffic to all interlocking signals, except when the authorized speed of trains approaching the interlocking signal is slow speed or less, in which case an inoperative approach signal displaying an aspect indicating "approach next signal prepared to stop" may be used. Exception may be made where the interlocking signal is the first signal encountered when leaving yard or station and authorized speed approaching such signal is not more than slow speed.

44. Signals governing movements at higher than restricted speed shall be controlled by continuous track circuits.

45. At controlled point, signals shall be controlled by control operator, and at manually-operated interlocking, manually in co-operation with control operator.

46. Signals at a controlled point shall be so interconnected that aspects to proceed cannot be displayed simultaneously for conflicting movements.

47. Signals at adjacent controlled points shall be so interconnected that aspects to proceed cannot be displayed simultaneously for conflicting movements.

48. On track signalled for movement in both directions occupancy of the track between opposing signals at adjacent controlled points shall prevent changing the direction of traffic from that which obtained at the time the track became occupied.

49. Occupancy of main track shall be automatically indicated at the control station.

50. Approach or time locking shall be provided for all controlled signals and for all electric locks on hand operated switches.

51. Route locking shall be provided where switches are power operated.

52. It shall be indicated on the control machine when power-operated switch has completed its movement and is locked.

53. Each hand-operated switch in main track where train movements are made at speeds exceeding 20 miles per hour shall be electrically locked in normal position. Electric locks may be unlocked either automatically or by the control operator, but only after control circuits of signals governing movements over the switch in each direction have been opened. Relief from this requirement may be granted upon adequate showing by the railway.

54. Plunger of facing point locks shall have at least eight inch stroke. When lever is in reverse position plunger shall pass through lock rod one-half inch or more.

55. Locking dog of switch-and-lock movement shall extend through lock rod one-half inch or more in either normal or reverse position.

56. Pole changer on electric switch operating mechanism shall be provided so that movement of switch mechanism follows movement of controlling lever.

57. Point detectors shall be provided so that when switch mechanism is locked in normal or reverse position contacts cannot be opened by manually applying force at the closed switch point. Point detector circuit controllers shall be provided so that the contacts will not assume the position corresponding to switch point closure if the switch point is prevented by an obstruction from closing to within one-fourth inch of its proper position.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 809

In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, including Specifications for shipping containers:

File No. 1717

TUESDAY, the 8th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon the recommendation of the Director of Operation of the Board—

It is ordered that the said Regulations be, and they are hereby, amended by cancelling and superseding or adding, items of commodity lists, section 72.5(*a*), pages 5 to 25 of Tariff, page 3 of supplement No. 1 and page 4 of supplement No. 2 to read as follows:

	Article	*Classed as*	*Exemptions & Packing (see sec.)*	*Label required if not exempt*	*Maximum quantity in one outside container by rail express*
(add)	Hydrochloric Acid solution, inhibited	Cor. L	73.244, 73.263	white	10 pints
(add)	Aldrin, cast Solid	See Sec. 73.376(*b*)			
(change)	Aldrin mixtures, liquid, with more than 60% aldrin	Pois B.	73.361	poison	46 gallons
(add)	Aldrin mixtures, liquid with 60% or less aldrin	See Sec. 73.361(*b*)			
(add)	Aldrin mixtures, dry, with 65% or less aldrin	See Sec. 73.376(*b*)			
(change)	Aldrin mixtures, dry with more than 65% aldrin	Pois B.	73.376	poison	200 pounds

Cancels and supersedes, heading and introductory text of paragraph (*a*), and subparagraphs (*a*)(1), (*a*)(7) and (*a*)(9) and add subparagraphs (*a*)(12), (*a*)(13), (*a*)(14) and (*a*)(15) of section 73.263, page 67 of Tariff, and page 10 of supplement No. 1 and page 8 of supplement No. 2 to read as follows:

Section 73.263—Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures hydrochloric (muriatic) acid solution, inhibited and sodium chlorite solution.

(*a*) Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, and sodium chlorite solution not exceeding 40 per cent sodium chlorite must be packed in specification containers as follows:

(1) Spec. 15A, 15B, 15C, 16A or 19A. Wooden boxes with inside containers which must be glass, earthenware, polyethylene or other nonfragile plastic material resistant to the lading (bags are not authorized), not over 1 gallon each, except that inside containers up to 3 gallons each are authorized when only one is packed in each outside container.

(7) Spec. 1D, 1E, or 1EX (single-trip). Glass carboys in boxes or plywood drums, of not over 5·5 gallons nominal capacity. Means shall be provided so that accumulated total pressure in bottle shall not exceed 10 p.s.i. gauge at 130° F. or shall vent at a pressure not to exceed 10 p.s.i. gauge.

(9) Spec. 103B, 103B-W, 108 or 108A. Tank cars. Authorized for acid not over 38 per cent strength by weight.

(12) Spec. 103B100-W. Tank cars. Authorized for acid not over 44½ per cent strength by weight.

(13) Spec. 1F or 1G. Polyethylene carboys in plywood drums or boxes or wooden boxes.

(14) Spec. 17H or 37D. Metal drums (single-trip) not over 5 gallons capacity each. Authorized only for hydrochloric (muriatic) acid solution, inhibited, containing not to exceed 15 per cent hydrochloric (muriatic) acid. Drums must be lined throughout with a pliable plastic material impervious to the solution. Spec. 37D metal drums must be at least 24 gauge steel.

(15) Spec. 12B. Fibreboard boxes with inside containers of polyethylene, or other nonfragile plastic material resistant to the lading (bags are not authorized), not over 1 quart capacity each, suitably cushioned to prevent movement within the box. Gross weight of complete package must not exceed 65 pounds.

Cancels and supersedes Sec. 73.361, page 11 of supplement No. 1, and page 9 of supplement No. 2, to read as follows:

Sec. 73.361—Aldrin mixtures, liquid, with more than 60 per cent aldrin. (*a*) Aldrin mixtures, liquid, with more than 60 per cent aldrin must be shipped in specification containers as follows:

(1) As prescribed in Sect. 73.346.

(2) Spec. 6A, 6B or 6C. Metal barrels or drums. Authorized only for viscous mixtures or those which may become partially solid.

(3) Spec. 17C or 17H. Metal drums (single-trip). Drums with opening exceeding 2·3 inches in diameter authorized only for viscous mixtures or those which may become partially solid.

(*b*) Aldrin mixtures, liquid, containing 60 per cent or less aldrin and no other material classed as dangerous under these regulations are not subject to the Board's Regulations.

Cancels and supersedes Sec. 73.376, page 12 of supplement No. 1, and page 10 of supplement No. 2 to read as follows:

Sec. 73.376—Aldrin mixtures, dry, with more than 65 per cent aldrin.

(*a*) Aldrin mixtures, dry, with more than 65 per cent aldrin, must be packed in specification containers as follows:

(1) As prescribed in Sect. 73.365.

(2) Dry mixtures containing 65 per cent or less aldrin, or aldrin, cast solid and containing no other material classed as dangerous under these Regulations are not subject to the Board's Regulations.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 810

In the matter of regulations in respect of plans required to be filed with the Board in connection with applications for railway crossings, junctions and movable bridges under Sections 255 and 308 of the Railway Act:

File No. 521

FRIDAY, the 11th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that the following regulations in respect of plans to be filed with the Board in connection with applications for railway crossings, junctions and movable bridges under Sections 255 and 308 of the Railway Act be, and they are hereby prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada:

REGULATIONS IN RESPECT OF PLANS REQUIRED TO BE FILED WITH THE BOARD IN CONNECTION WITH APPLICATIONS FOR RAILWAY CROSSINGS, JUNCTIONS AND MOVABLE BRIDGES, SECTIONS 255 AND 308 OF THE RAILWAY ACT

1. The applicant shall send to the Secretary of the Board an application accompanied by three sets of the plan and profile of both railways on each side of the proposed crossing or junction, or of the railway in the case of a movable bridge, for a distance of one mile in each direction.

2. The plan and profile shall be drawn to the following minimum scales:

 Plan, 400 feet to an inch.
 Profile, 400 feet to an inch horizontal.
 20 feet to an inch vertical.

 The first set is for approval by and filing with the Board; the second and third sets are for certification and return to the Applicant duly certified as copies of the approved plan and profile.

3. The Applicant shall serve a copy of the application and the plan and profile on the company whose line is to be crossed or joined, and file with the Board evidence of such service.

4. When it is proposed to cross a canal or navigable water approval of the Governor in Council shall be secured, as provided in Section 251 of the Railway Act, before making application to the Board.

5. Upon completion of the work application shall be made for leave to operate trains.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85864

In the matter of the application of Upper Lakes and St. Lawrence Transportation Company Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·22

FRIDAY, the 25th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.C.) 303 be issued to the Applicant licensing, for the period of one year commencing January 15, 1955, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Brown Beaver	160721	1892
Charles R. Huntley	148898	1760
Grey Beaver	160722	1892
James Stewart	148901	1760
John S. Pillsbury	149071	1754
Judge Kenefick	148430	1745
Shelton Weed	148453	1745

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River as far seaward as Prescott, Ontario:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Ralph Budd	154862	4537

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85875

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15th, 1951:

File No. 40994·35

WEDNESDAY, the 30th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas North Star Oil Limited has made application under subsection (8) of Section 32 of the Transport Act and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Moose Jaw, Saskatchewan, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge;

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 46 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said Agreed Charge, shipped by North Star Oil Limited from Moose Jaw, Saskatchewan, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85877

In the matter of the application of the Canada Steamship Lines, Limited, under section 18 of the Transport Act, for approval of their Standard Mileage Freight Tariff C.T.C. No. 261, cancelling C.T.C. No. 248, on file with the Board under file No. 42082·1:

WEDNESDAY, the 30th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Mileage Freight Tariff C.T.C. No. 261, on file with the Board under file No. 42082·1, be, and it is hereby approved, subject to complaint and investigation and determination as to rates or charges, as provided by the Transport Act.

It is further ordered that the said Tariff may be published and filed on not less than three days' notice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85878

In the matter of the application of the Canadian Pacific Railway Company, under section 18 of the Transport Act, for approval of its Standard Mileage Freight Tariff C.T.C. No. E. 5240 cancelling C.T.C. No. E. 5210, on file with the Board under file No. 42082·7:

WEDNESDAY, the 30th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Standard Mileage Freight Tariff C.T.C. No. E. 5240 of the Canadian Pacific Railway Company be, and it is hereby approved, subject to complaint and investigation and determination as to rates or charges, as provided by the Transport Act.

It is further ordered that the said Tariff may be published and filed on not less than three days' notice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85879

In the matter of the application of Northwest Steamships Limited, under section 18 of the Transport Act, for approval of its Standard Mileage Freight Tariff C.T.C. No. 53 cancelling C.T.C. No. 51, on file with the Board under file No. 42082·3:

WEDNESDAY, the 30th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Mileage Freight Tariff C.T.C. No. 53 of Northwest Steamships Limited, on file with the Board under file No. 42082·3, be, and it is hereby approved, subject to complaint and investigation and determination as to rates or charges, as provided by the Transport Act.

It is further ordered that the said Tariff may be published and filed on not less than three days' notice.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85900

In the matter of the application of Colonial Steamships, Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·16

MONDAY, the 4th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 304 be issued to the Applicant licensing, for the period of one year commencing January 15, 1955, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Bayton	141675	4176
Laketon	137906	4423
Ralph S. Misener	141679	7403
Royalton	151108	7164

2. On Lakes Ontario, Erie, Huron, (including Georgian Bay) and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Brampton	149435	1926
Clayton	161526	1925
Queenston	149430	1926
R. H. Marshall	149499	1926
Donald F. Fawcett	148073	1902
Frank H. Brown	148079	1902
Frank Wilkinson	161524	1940
E. P. Murphy	149493	1927
Paul Manion	149494	1927
J. N. McWatters	161519	1928
Geo. M. Carl	149475	1939
J. G. Irwin	149495	1927
H. L. Wyatt	161517	1928
John A. France	161518	1938
Clary Foran	149500	1975
C. A. Ansell	161520	1940

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85901

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 17 to Agreed Charge C.T.C. (AC) No. 14:

File No. 40994·16

MONDAY, the 4th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 17 to Agreed Charge C.T.C. (AC) No. 14, on file with the Board under file No. 40994·16, be, and it is hereby approved; and that the date as from which the said Supplement No. 17 shall be deemed to have become operative is hereby fixed as March 1st, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85904

In the matter of the application of Volkswagen Canada Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76 as approved by the Board:

File No. 40994·60

TUESDAY, the 5th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Volkswagen Canada Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 76, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 76 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said Agreed Charge, shipped by Volkswagen Canada Limited from Toronto, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85909

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·34

TUESDAY, the 5th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) No. 302 be issued to the Applicant licensing for the period of one year commencing February 9, 1955, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. *Between* (a) Tuktuk, N.W.T.; (b) Great Slave Lake, east of and including Rocher River and Francois Bay, N.W.T., except Fort Reliance, N.W.T.; (c) Lake Athabaska, east of and including Camsell Portage and Fond du Lac, Sask., except Bushell, Black Bay, Goldfields and Stoney Rapids, Sask., *AND* all ports and places within the watershed of the Mackenzie River, but not including the Peace, Liard, Nelson and Bear Rivers.

Between Waterways, Alta. *AND* Peace River, situated between Point Providence and Vermilion Chutes, Alta., inclusive.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
M.V. Watson Lake	175563	26·07
M.V. Hearne Lake	156578	94·83
M.V. Pelly Lake	156566	76·70
M.V. Pelican Rapids	175564	163·70
HBC Barge 106	193281	104·52
HBC Barge 209	193282	364·89
HBC Barge 210	193283	364·89
HBC Barge 211	175554	295·83
HBC Barge 212	175555	295·83
HBC Barge 254	175556	215·66
HBC Barge 255	175557	215·66
HBC Barge 256	175558	215·66
HBC Barge 257	175559	215·66
HBC Barge 258	175560	419·78
HBC Barge 259	175561	419·78

2. On Nelson and Liard Rivers, situated between Fort Nelson, B.C., and Fort Simpson, N.W.T., inclusive.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
M.B. Stuart Lake	175562	14·73
HBC Scow 1	Not registered	40·00
HBC Scow 2	Not registered	40·00
HBC Scow 4	Not registered	15·00
HBC Scow 5	Not registered	40·00

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85910

In the matter of the application of the Canadian Industrial Traffic League, Inc., and the Canadian Manufacturers' Association, Inc., for an Order approving the French text of General Order No. 792, dated January 22, 1954, as submitted by the Applicants:

File No. 3678·84

TUESDAY, the 5th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the French text of General Order No. 792, dated January 22, 1954, on file with the Board under file No. 3678·84, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85922

In the matter of the application of the Canadian Freight Association dated February 28th, 1955, for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 80:

File No. 40994·67

WEDNESDAY, the 6th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 80, on file with the Board under file No. 40994·67, be, and it is hereby approved; and that the date from which the said Supplement No. 2 shall be deemed to have become effective is hereby fixed as March 1st, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, FEBRUARY, 1955

Railway Accidents	143	Killed	7	Injured	145
Level Crossing Accidents ...	43	Killed	14	Injured	54
Total	186		21		199

	Killed	*Injured*
Passengers	—	29
Employees	3	114
Others	18	56
Total	21	199

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Prince Edward Island

Killed	*Injured*	
—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: P.E.I. 20-967.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: P.E.I. 10-774.

Nova Scotia

—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 84-427.

New Brunswick

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-36778.

Quebec

—	2	Automobile struck track motor car. Licence: Que. 525-190.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 481-682.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 123-616.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 34-462.
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Automobile ran into side of train. Licence: Que. 148-315.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. H-17.

Ontario

1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. DH-361.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 403-U-5.
—	1	Auto truck ran into side of train. Licence: Ont. 84802-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 3701-Z.
—	1	Automobile ran into side of train. Licence: Ont. 992-803.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CF-602.

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 746-681.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KU-968.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 775-273.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AW-760.
—	2	Automobile ran into side of train. Licence: Ont. 298-340.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 1657-L.
—	1	Automobile ran into side of train. Licence: Ont. JH-35.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 46964-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 2897-U.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 2766-C.
—	1	Automobile ran into side of train. Licence: Ont. JC-8.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 80632.
1	—	Bulldozer drove onto crossing in front of approaching train and was struck.
1	—	Automobile ran into side of train. Licence: Ont. 9-S-28.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 646-940.
		MANITOBA
2	1	Automobile ran into side of train. Licence: Man. 7-P-968.
		SASKATCHEWAN
—	3	Auto jeep drove onto crossing in front of approaching train and was struck. Licence: Sask. C-3407.
1	1	Auto truck ran into side of train. Licence: Sask. F-89-248.
—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 79-147.
		ALBERTA
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. KM-728.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. 12698.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. TT-286.

Of the 43 acicdents at highway crossings, 36 occurred at unprotected crossings, and 7 at protected crossings. Twenty-eight occurred after sunrise and fifteen after sunset.

Ottawa, Ontario, March 31st, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85725 Mar. 9—In the matter of approval of plan submitted by the Northern Alberta Railways Company, on behalf of Canadian Gulf Oil Company, showing proposed extension to crude oil loading facilities at Kenzie, Alberta.

85726 Mar. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the Northern Alberta Railways tracks at Manola, Alberta.

85727 Mar. 9—Approving proposed location of storage tank, etc. of North Star Oil Limited, near the C.N.R. tracks at Craik, Saskatchewan.

85728 Mar. 9—Authorizing the C.N.R. to construct a bridge to carry the new east leg of the wye connecting Camrose and Viking Subdivisions across the Provincial Highway at Bretville Junction, Alberta.

85729 Mar. 9—Authorizing the C.N.R. to replace the existing detector bars at the home signals protecting the swing bridge at Washago, Ontario.

85730 Mar. 9—Permitting the removal of slow order at C.N.R. crossing of Hannibal Street (Highway No. 15), Smiths Falls, Ontario.

85731 Mar. 9—Authorizing the Ontario Department of Highways to relocate the highway across the C.N.R. at mileage 18·74 Oakville Subdivision, Township of Trafalgar, County of Halton, Ontario.

85732 Mar. 9—Authorizing the C.N.R. to abandon the operation of their Scotia Subdivision in Pictou County, Nova Scotia.

85733 Mar. 9—Approving proposed location of storage tanks, etc. of The British American Oil Company Limited, near the C.N.R. tracks at Elk Point, Alberta.

85734 Mar. 9—Authorizing the C.P.R. to operate the bridge over Pile of Bones Creek and over the highway, Alberta.

85735 Mar. 9—Authorizing the C.P.R. to construct a siding to serve Building Products & Coal Company, Limited, across Raleigh Street, in the Rural Municipality of East Kildonan, Manitoba.

85736 Mar. 9—Authorizing the British Columbia Department of Public Works to construct the highway across the Great Northern Railway Company's right-of-way near Cawston, British Columbia.

85737 Mar. 9—Authorizing the C.P.R. to cross Kent Street, Vancouver, British Columbia, with a siding to serve Kingston Suppliers at mileage 1·93 Westminster Branch of the Vancouver & Lulu Island Railway.

85738 Mar. 9—Approving operation of C.P.R. trains over the private siding serving J. S. Mitchell & Company Limited, Sherbrooke, Quebec.

85739 Mar. 9—Approving Supplement No. 14 to Agreed Charge Tariff C.T.C. (AC) No. 62 upon application of the Canadian Freight Association.

85740 Mar. 9—Amending Order No. 74107, dated March 9, 1950, which authorized the C.N.R. to close the highway across its railway at mileage 35·25 Albreda Subdivision, British Columbia.

85741 Mar. 9—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Thicket Portage, Manitoba.

85742 Mar. 9—Amending Order No. 75756, dated December 19, 1950, in the matter of the application of British Columbia Department of Public Works for an Order extending the time within which the C.N.R. was required to close the crossing of their railway at mileage 17·6 Albreda Subdivision.

85743 Mar. 10—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

85744 Mar. 10—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

85745 Mar. 10—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

85746 Mar. 10—In the matter of the Application of The Bell Telephone Company of Canada for leave to construct its lines of telephone upon certain public highways in the Township of Chatham, County of Kent, Ontario.

85747 Mar. 10—Authorizing the C.N.R. to remove the station agent at Kingman, Alberta.

85748 Mar. 11—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at St. Benedict, Saskatchewan.

85749 Mar. 11—Permitting the removal of slow order at C.P.R. crossing first public crossing south of the station at Mapledale, Quebec.

85750 Mar. 11—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Maurice H. Esten, Executor for the Estate of the late Mrs. Annie Ronald, successor to Andrew Ronald, proprietor of the Minesing Telephone System.

85751 Mar. 11—Approving Traffic Agreement between The Bell Telephone Company of Canada and Mr. Thos. E. McKee, proprietor of the Minesing Telephone System.

85752 Mar. 11—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Welland County Telephone Company Limited.

85753 Mar. 11—Authorizing the Village of Belle River, Ontario, to construct a highway across the C.N.R. in the Village Belle River.

85754 Mar. 11—Permitting the removal of slow order at C.P.R. crossing of Cote St. Luc Road, Montreal, Quebec.

85755 Mar. 11—Authorizing the Quebec Department of Roads to relocate and widen Highway No. 59 across the Nipissing Central Railway Company near Copper Creek, Township of Dasserat, County of Rouyn-Noranda, Quebec.

85756 Mar. 14—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 11, being the first crossing south of the station at Brora, Saskatchewan.

85757 Mar. 14—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railway near Knox, Man.

85758 Mar. 14—Extending the time within which protection is to be installed by the C.N.R. at the crossing of Steele Street, Port Colborne, Ontario.

85759 Mar. 14—Approving proposed location of storage tanks, etc. of the C.N.R. near their tracks at Turcot, Quebec.

85760 Mar. 14—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Sceptre, Saskatchewan.

85761 Mar. 14—Approving proposed location of storage tanks, etc. of the South Saskatchewan Pipe Line Company, near the C.P.R. tracks at Cantuar, Saskatchewan.

85762 Mar. 14—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of storage tank, etc. at Chambord, Quebec.

85763 Mar. 14—Permitting the removal of slow order at C.N.R. crossing of Bayers Road, Halifax, Nova Scotia.

85764 Mar.;14—Authorizing the C.N.R. to operate the bridge at mileage 39·7 Yale Subdivision, British Columbia.

85765 Mar. 14—Authorizing the C.P.R. to operate over the structural plate culvert at mileage 43·1 Coquihalla Subdivision, British Columbia.

85766 Mar. 14—Authorizing the C.P.R. to operate over the culvert at mileage 35·2 Coquihalla Subdivision, British Columbia.

85767 Mar. 14—Authorizing the C.P.R. to open for the carriage of traffic its Manitouwadge Lake Subdivision, originating at mileage 0·0 and terminating at mileage 2·0, Ontario.

85768 Mar. 15—Approving Supplement to Agreed Charge Tariff C.T.C. (AC) No. 11.

85769 Mar. 15—Approving Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Sherwood.

85770 Mar. 15—Approving the abandonment of operation of the C.N.R. line of railway, known as the Elgin Subdivision, in the Province of New Brunswick between Petitcodiac and Elgin.

85771 Mar. 16—In the matter of the application of Divco Corporation of Detroit 5, Michigan, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76.

85772 Mar. 16—In the matter of the application of Rootes Motors (Canada) Limited of Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76.

85773 Mar. 16—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of their railways at mileage 33·29 Qu'Appell Subdivision of the C.N.R. and mileage 25·7 Bulyea Subdivision of the C.P.R., Sasktachewan.

85774 Mar. 16—In the matter of the application of The Bell Telephone Company of Canada for an Order approving the terms and conditions of the issue, sale or other disposition of not more than 1,700,000 shares of its capital stock.

85775 Mar. 16—Permitting the removal of slow order at C.N.R. crossing, first west of the station at Albany, Prince Edward Island.

85776 Mar. 16—Permitting the removal of slow order at C.N.R. crossing, second west of the station at Beachburg, Ontario.

85777 Mar. 16—Permitting the removal of slow order at C.N.R. crossing of Davis Street, Arvida, Quebec.

85778 Mar. 16—Permitting the removal of slow order at C.P.R. crossing east of Bonarlaw, Ontario.

85779 Mar. 16—Approving proposed location of storage tank, etc. of North Star Oil Limited, near the C.P.R. tracks at Morden, Manitoba.

85780 Mar. 16—Approving clearances at the loading point under the storage silos at the mine of American Nepheline Limited at mileage 16·19 Nephton Subdivision, Ontario.

85781 Mar. 16—Permitting the removal of slow order at C.N.R. crossing at mileage 37·05 Tisdale Subdivision, Saskatchewan.

85782 Mar. 16—In the matter of filing of tariffs by the British Columbia Telephone Company.

85783 Mar. 16—Approving clearances of temporary falsework during reconstruction of C.P.R. bridge at mileage 82·0 Trois Rivieres Subdivision, Quebec.

85784 Mar. 16—Permitting the removal of slow order at C.N.R. crossing of Notre Dame Street, Summerside, Prince Edward Island.

85785 Mar. 16—Permiting the removal of slow order at C.N.R. crossing of Cumberland Street, Cornwall, Ontario.

85786 Mar. 16—Permitting the removal of slow order at C.P.R. crossing of Thornton Road, Oshawa, Ontario.

85787 Mar. 17—In the matter of the application of Canada Steamship Lines Limited for a licence under section 10 of the Transport Act.

85788 Mar. 17—Authorizing the C.P.R. to make changes in the automatic block signal system between mileage 127·7 and mileage 130·7, Nipigon Subdivision, in the vicinity of Port Arthur, Ontario.

85789 Mar. 17—Authorizing the C.P.R. to reconstruct its bridge at mileage 6·3 Fredericton Subdivision, New Brunswick.

85790 Mar. 17—Permitting the removal of slow order at C.P.R. crossing of Highway No. 14, first crossing west of the station at Sheho, Saskatchewan.

85791 Mar. 17—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Myrnam, Alberta.

85792 Mar. 17—Permitting the removal of slow order at C.N.R. crossing, being the first crossing east of the station at Wolf Creek, Alberta.

85793 Mar. 17—Permitting the removal of slow order at C.N.R. crossing of Montarville Road, Longueuil, Quebec.

85794 Mar. 17—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Newton, Ontario.

85795 Mar. 18—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Muskoka, Victoria and Haliburton Telephone Company Limited.

85796 Mar. 18—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Livingstone Rural Telephone Company Limited.

85797 Mar. 18—Approving plan, etc. showing location of the deviations of the Trans-Northern Pipe Line Company, East of Yonge Street, Township of North York, Ontario.

85798 Mar. 18—Authorizing the City of Winnipeg to construct Grant Avenue across the Midland Railway Company of Manitoba and the C.P.R., between Lindsay and Renfrew Streets, Winnipeg, Manitoba.

85799 Mar. 18—Authorizing the Saskatchewan Department of Highways and Transportation to widen the existing crossing of Highway No. 13 and the right-of-way of the C.P.R. on the division between the Northeast quarter of Section 35, Twp. 7, and the Southeast quarter of Section 2, Twp. 8, Rge. 2, W2M, Saskatchewan.

85800 Mar. 18—Dismissing the application of the C.N.R. to remove the station agent at Edgeley, Saskatchewan.

85801 Mar. 21—Authorizing the C.N.R. to construct a branch line of railway between Ellice Avenue and Barry Avenue, in the Parish of St. James, Man.

85802 Mar. 21—Permitting the removal of slow order at Montreal and Southern Counties Railway crossing at D'Arcy Corner, Quebec.

85803 Mar. 21—Authorizing the C.N.R. to remove the station agent at Donovan, Saskatchewan.

85804 Mar. 22—Authorizing The Algoma Central and Hudson Bay Railway Company to make alterations to the railway bridge 92 miles north of Sault Ste. Marie, Ontario.

85805 Mar. 22—Approving proposed location of storage tank, etc. of Supertest Petroleum Corporation Limited, near The Chesapeake & Ohio Railway Company tracks at Chatham, Ontario.

85806 Mar. 22—Authorizing the C.N.R. to construct their Richmond Hill passing track across Elgin Mills Side Road, County of Markham, Ontario.

85807 Mar. 22—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Apsley Telephone Company Limited.

85808 Mar. 22—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Garnet Robertson, proprietor of The Brechin Telephone System.

85809 Mar. 22—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Kamouraska.

85810 Mar. 22—Authorizing the C.N.R. to construct a branch line to serve an industrial area between Sargent and Wellington Avenues, in the Parish of St. James, Manitoba, etc.

85811 Mar. 22—Approving Service Station Contract between The Bell Telephone Company of Canada and the St. Lawrence Corporation (Woodlands Department).

85812 Mar. 22—Approving Service Station Contract between The Bell Telephone Company of Canada and Telephone Chibougamau Ltée.

85813 Mar. 22—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Charlevoix & Saguenay.

85814 Mar. 22—Approving Service Station Contract between The Bell Telephone Company of Canada and the Société de Téléphone de la Pointe.

85815 Mar. 22—Approving Traffic Agreement between The Bell Telephone Company of Canada and Syndicat Coopératif de Téléphone de St-Jean Baptiste Anse St. Jean.

85816 Mar. 23—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone upon a public highway in the Township of Chatham, County of Kent, Ontario.

85817 Mar. 23—Authorizing the C.N.R. to make changes in the automatic protection, necessitated by the installation of a siding at the crossing of Cote de Liesse Road in Ville St. Laurent, Quebec.

85818 Mar. 23—Authorizing the C.P.R. to discontinue the operation of trains Nos. 637 and 640 and to abandon passenger train service between Hamilton and Guelph Junction, Ontario.

85819 Mar. 23—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 48, second crossing north of the station at Pefferlaw, Ontario.

85820 Mar. 23—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Canwood, Saskatchewan.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLV OTTAWA, MAY 15, 1955 No. 4

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, $3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

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In the matter of the application of the Canadian National Railways under Section 168 of the Railway Act and Section 2(3) of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an Order granting them leave to abandon the operation of the following line of railway namely: the Elgin Subdivision in the Province of New Brunswick between Petitcodiac (mileage 0·0) and Elgin (mileage 13·5), a total distance of 13·5 miles.

File No. 39310.2

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Heard at:

Moncton, New Brunswick, on February 14 and 15, 1955.

Appearances:

J. W. G. MACDOUGALL, W. H. HEWSON and H. J. G. PYE, for the Canadian National Railways.

C. F. INCHES, Q.C., for F. E. Sayre Estate.

R. D. MITTON, Q.C., for the Province of New Brunswick.

LEONARD C. JONES, Jr., for the County of Albert.

D. A. RILEY, for certain citizens of Albert County.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner.
CHASE, Commissioner.

History:

The application in this case was filed with the Board under date of September 30, 1954, and at the same time the Board was advised that copies of the application had been forwarded to various interested parties. The Board then directed one of its Engineers, in company with one of its Operating Inspectors, to make a thorough survey of that part of the line which the railways desire to abandon, and to make a complete report with respect thereto.

In the report it was indicated that interviews had been held with a number of persons living in the various communities affected, and with respect to the line itself and the operation thereof the following are the significant points.

The line in question is what is termed "Class E" track, the lowest in the category. Seventy-five per cent of the rail is 67-pound. Only the lightest locomotives used by the railways are operated on the line at a speed of fifteen miles per hour, and cars used on the line are limited to those of 120,000 pounds gross weight. The ballast is poor and very thin. There is no passenger service nor other regular train service being operated on the line, and trains are run on what might be termed an "if, as and when basis", the average being one round trip per week.

The railway is closely paralleled by a secondary highway with a gravelled surface which is in good condition and appears capable of withstanding normal heavy traffic during all seasons of the year, subject, of course, to such weight restrictions as are placed upon it by the provincial highway officials during the thawing out period in the spring.

There is no direct bus service to Elgin but Scotia Motor Transport operates four trips daily between Moncton, Petitcodiac and Saint John over Provincial Highway No. 2, a hard-surfaced, all-weather road.

After considering this report and the numerous objections filed with the Board by several persons, it was decided to put the matter down for hearing.

The hearing was held in Moncton, New Brunswick, on February 14 and 15, 1955, and at the outset Counsel for the railways, Mr. Macdougall, furnished the Board with an historical background of that portion of the line which the railways desire to abandon.

Mr. Macdougall stated (See pages 652, 653 and 654 of the transcript):

> "This is an application that is requesting permission of the Board under the relevant provisions of the legislation enacted by Canada to obtain leave to abandon the portion of 13·5 miles of railroad.
>
> The railroad involved was originally the Petitcodiac and Elgin Branch Railway Company, was incorporated on April 8th, 1874, under 37 Victoria, Chapter 74 of the Province of New Brunswick, and the line was built running from Petitcodiac which is a point not too far distant from Moncton, on the old European and North American Railway, as it was then known, now Canadian National Railways, to a point in the interior known as Elgin Corner.
>
> On April 18th, 1878, by the New Brunswick Act 41 Victoria Chapter 101 the name of this railroad was changed to the Elgin, Petitcodiac and Havelock Railway Company, which had power to extend the line to Havelock Corner.

In January 1890 the line was placed in the hands of a receiver, and in October, 1892, the road was sold at auction and purchased on behalf of its bondholders.

On July 23rd, 1894, under a Dominion Act, 57-58 Victoria, Chapter 72, the Elgin and Havelock Railway Company was incorporated with power to purchase the original railroad, the Elgin, Petitcodiac and Havelock Railway from C. E. Young, to whom it was conveyed by virtue of a decree of the Supreme Court of Equity of the Province of New Brunswick.

The construction of the line from Petitcodiac to Elgin Corner was completed during the year 1876 and it was later extended to Havelock Corner, which is on the other side of the main line of the railway, in October, 1885.

To assist in the construction certain subsidies were paid at that time by the Dominion Government, a total amount of $82,652.82; by the Province of New Brunswick $70,000 in 1877 for the construction of the line to Elgin. The Province also paid an additional subsidy of $37,500 for the construction of the line to Havelock, but that portion of the line is not involved in this application. The Parish of Elgin itself paid $13,000 towards the building of the line from Petitcodiac to Elgin.

The line from Petitcodiac to Elgin was opened to traffic in the fall of 1876.

In 1915 by an Act of the Federal Parliament known as 5 George V, Chapter 16, the Minister of Railways was authorized to acquire any railways in the Maritime Provinces which in his opinion could be better operated as a part of the Canadian Government Railways System. Under Provisions of this act an Order-in-Council was passed on May 22nd, 1918, authorizing the purchase of the Elgin and Havelock Railway for $30,000 and operation of the road was taken over on June 1st, 1918. That was the whole line from Elgin through Petitcodiac to Havelock, part of which is involved in this application.

By an Order-in-Council issued by the provincial government on August 3rd, 1920, the land upon which this railroad was built was vested in the Railway Company according to the plans prepared by Gordon Grant, an engineer of the Department of Railways and Canals; and on October 7th, 1920, the deed of sale was executed transferring the property of the Elgin and Havelock Railway Company by that Company to His Majesty the King represented by the Minister of Railways and Canals in consideration of $30,000 with interest at 5 percent from June 1st, 1918.

Now, this railroad so turned over and paid for is now operated as part of the Moncton Division of the Atlantic Region of the Canadian National Railways. It is in two parts, the Elgin Subdivision running between Petitcodiac to Elgin, a distance of 13·8 miles; and the Havelock Subdivision from Petitcodiac to Havelock, a distance of 12·31 miles, which is not a matter before the Board.

That is a brief historical summary of this line and it will be seen from that, that the matter of interest is the portion of this old railroad between Elgin and Petitcodiac, 13·8 miles."

We turn now to the exhibits and evidence submitted during the hearing.

The railways submitted ten exhibits relating to traffic handled, revenues, expenses and losses. As a general policy, the Board requires figures showing revenues and expenses for three years. In this case, the actual figures for the

years 1951, 1952 and 1953 were supplied, together with an exhibit containing figures—part actual and part estimated—for the year 1954. These four exhibits are reproduced below.

EXHIBIT No. 7

CANADIAN NATIONAL RAILWAYS

Out-of-Pocket Expenses Incurred on Elgin Subdivision, Petitcodiac to Elgin, N.B.

During the Years 1951-1953, Both Inclusive

System Revenues	*1951*	*1952*	*1953*
Train Service	$ 8,480	$ 7,101	$ 9,143
Mtce. of Equipment	1,627	1,763	2,161
Station Service	1,647	1,647	1,982
Mtce. of Way and Structures (estimated)	22,925	30,200	35,756
Total	$34,679	$40,711	$49,042

Montreal, Quebec, January 18, 1955.

EXHIBIT No. 8

CANADIAN NATIONAL RAILWAYS

Loss Incurred on Elgin Subdivision, Petitcodiac to Elgin, N.B. 1951-1953, Both Inclusive

System Revenues	*1951*	*1952*	*1953*
Passenger			
Freight	$51,578	$32,241	$29,214
Express	495	690	452
Rentals	72	72	72
Total	$52,145	$33,003	$29,738
C.N.R. Out-of-Pocket Expenses			
Branch Line			
Train Service	$ 8,480	$ 7,101	$ 9,143
Mtce. of Equipment	1,627	1,763	2,161
Station Service	1,647	1,647	1,982
Maintenance of Way and Structures (Estimated)	22,925	30,200	35,756
Balance of System			
50% Operating Ratio on Off Line Freight and Express	24,460	15,458	13,930
Total	$59,139	$56,169	$62,972
System Loss	$ 6,994	$23,166	$33,234

Montreal, Quebec, January 18, 1955.

EXHIBIT No. 9

CANADIAN NATIONAL RAILWAYS

Estimate of Loss Incurred on Elgin Subdivision,
Petitcodiac to Elgin, N.B.—1954

System Revenues	*1954*	
Passenger		
Freight	* $25,866	
Express	452	(1953)
Rentals	72	
Total	$26,390	
C.N.R. Out-of-Pocket Expenses		
Branch Line		
Train Service	$ 9,000	(estimated)
Mtce. of Equipment	2,000	"
Station Service	1,989	"
Mtce. of Way and Structures	28,034	(actual)
Balance of System		
50% Operating Ratio on Off-Line Freight and Express	$12,355	
Total	$53,378	
System Loss	$26,988	

* Estimate based on actual gross revenues including foreign lines earnings.

EXHIBIT No. 10

CANADIAN NATIONAL RAILWAYS

Statement of Branch Line Loss Incurred on the Elgin Subdivision
between Petitcodiac and Elgin, N.B.

Branch Line Revenues	*1951*	*1952*	*1953*
Freight	$ 3,095	$ 1,934	$ 1,753
Express	59	83	54
Rentals	72	72	72
Total	$ 3,226	$ 2,089	$ 1,879
Branch Line Expenses			
Train Service	$ 8,480	$ 7,101	$ 9,143
Mtce. of Equipment	1,627	1,763	2,161
Station Service	1,647	1,647	1,982
Mtce. of Way and Structures (Estimated)	22,925	30,200	35,756
Total	$34,679	$40,711	$49,042
Branch Line Loss	$31,453	$38,622	$47,163

Montreal, Quebec, January 18, 1955.

These exhibits speak for themselves but an examination of them clearly shows that after giving the branch line credit for earnings on traffic originating or terminating on the branch line as related to the Canadian National Railways as a system, the system losses for the years 1951, 1952 and 1953 were as follows:

1951	$ 6,994
1952	$23,166
1953	$33,234

And the figures relating to part actual and part estimated expenses for the year 1954 (Exhibit 9) show the system loss as $26,988.

Here it should be noted that the expenses shown on the above mentioned exhibits were what might be termed "bare bones expenses", that is to say, no charges were made for supervision, depreciation, etc. If such charges had been made, the losses would be correspondingly higher and we believe it would be safe to say that if the line were to be continued in operation the losses would be somewhere in the neighbourhood of $30,000 per annum.

Evidence was also submitted which clearly showed that maintenance of the line has been deferred, only enough having been performed to permit safe operation for the traffic moving, and to maintain the line even to a Class E standard would require considerable maintenance expenditures during the ensuing years.

The case for the opponents was presented by the following Counsel:

Mr. C. F. Inches, Solicitor, appeared for F. E. Sayre Estate.

Mr. R. D. Mitton, Solicitor, appeared for the Province of New Brunswick.

Mr. Leonard C. Jones, Jr., Solicitor, appeared for the County of Albert, New Brunswick.

Mr. D. A. Riley, Solicitor, appeared for certain Citizens of Albert County.

On behalf of F. E. Sayre Estate, a petition was filed with the Board, dated February 7, 1955.

Mr. Sayre appeared at the hearing but did not take the witness stand. In evidence submitted by the railways it was clearly proven that Mr. Sayre furnished more traffic to the railways than any of the other shippers. He carries on a lumber business at Pollett River which is about six miles from the Village of Petitcodiac. In his petition he contended that if the railway line were abandoned it would cost him about $2.50 per thousand feet to truck his lumber from Pollett River to Petitcodiac and it might be more economical for him to truck his lumber straight through to Saint John, New Brunswick, instead of loading it on railway cars at Petitcodiac, and in conclusion he requested that the line be kept open as far as Forest Glen or Pollett River.

Seven other witnesses were heard and their evidence, we think, can be summed up briefly as follows:

They would suffer inconvenience. The price of pulpwood was low, hence one of the reasons for the falling off in traffic. Prices appear to be rising and prospects for additional traffic have improved. There are great mineral potentialities in the area and a number of mining claims have been staked, some of which may eventually develop into producing mines; but none of these witnesses could submit any definite proof which would indicate in any way that this branch line could ever be put on a paying basis.

During the cross-examination of railway witnesses and in argument, Counsel for the opponents appeared to hold the view that for some reason or other that particular section of the Province of New Brunswick had been selected by the railways for abandonment, and it appeared to be the feeling

that if the railways were to effect economies it should be in some other part of the country. To dispel that idea, we would refer to previous decisions of the Board as follows:

(1) C.N.R. Tweed Subdivision, year 1941, 53 C.R.C., p. 139. Abandonment of operation of the Tweed Subdivision between Yarker and Tweed, Ontario, a distance of 33.94 miles. System saving if line abandoned $22,203. Application granted.

(2) C.N.R. Lakefield Subdivision, Ontario, year 1951, 66 C.R.C., p. 344. Abandonment of operation of 16.24 miles. System saving if line abandoned $31,392. Application granted.

(3) C.N.R. Westport Subdivision, Ontario, year 1952, 69 C.R.C., p. 136. Abandonment of operation of 40.51 miles. System saving if line abandoned $83,035. Application granted.

(4) C.N.R. Algonquin Subdivision, Ontario, Board's file No. 39310.17. Judgment dated January 17, 1955, not yet reported in C.R.C. Application to abandon 39.95 miles of the Algonquin Subdivision. System saving if line abandoned $97,109. Application granted.

(5) C.N.R., portion of the Scotia Subdivision, Nova Scotia. Board's file No. 39310.61. Judgment dated March 8, 1955 not yet reported in C.R.C. Application to abandon 5.24 miles into Pictou Landing. System saving if line abandoned somewhat in excess of $20,000 per annum. Application granted.

Summary

As we have stated in previous cases, the Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines. The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involves when imposed upon the railways.

In the present case the mileage to be abandoned is 13.5 miles, with a system saving of at least $25,000 per annum. Considering the decisions in the cases mentioned above, the substantial loss to the railways and all that was presented to the Board at the hearing, we believe that the application for abandonment is justified. * The loss to the railways outweighs the loss and inconvenience to the public.

We can readily appreciate the feelings of the opponents. Losing their railway line is somewhat akin to losing an old friend but there comes a time when it is necessary to prune out the dead limbs from the tree. At times it is inconsistent to require drains upon the revenue flowing from operation of unprofitable and unnecessary branch lines, even if the operation of the system as a whole is profitable.

The application is approved and Order will go accordingly.

A. SYLVESTRE.
H. B. CHASE.

March 11, 1955.

ORDER No. 85770

In the matter of the application of the Canadian National Railways under section 168 of the Railway Act and section 2(3) of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an Order granting them leave to abandon the operation of the following line of railway namely: the Elgin subdivision, in the Province of New Brunswick, between Petitcodiac (mileage 0·0) and Elgin (mileage 13·5), a total distance of 13.5 miles:

File No. 39310.2

TUESDAY, the 15th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed:

It is ordered that the abandonment of operation of the Canadian National Railways' following line of railway—the Elgin Subdivision, in the Province of New Brunswick between Petitcodiac (mileage 0.0) and Elgin (mileage 13.5), a total distance of 13.5 miles, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

In the matter of the application of the Canadian National Railways under Section 168 of the Railway Act and Section 2(3) of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an Order granting them leave to abandon the operation of the following line of railway, namely: a portion of the Albert Subdivision in the Province of New Brunswick, between Hillsboro, mileage 24·4, and Albert, mileage 44·8, a total distance of 20·4 miles.

File No. 39310.64

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Heard at:

Moncton, New Brunswick, on February 15 and 16, 1955.

Appearances:

J. W. G. MACDOUGALL, W. H. HEWSON and H. J. G. PYE, for the Canadian National Railways.

R. D. MITTON, Q.C., for the Province of New Brunswick.

LEONARD C. JONES, JR., for the County of Albert.

D. A. RILEY, for certain citizens of Albert County.

T. L. MCGLOAN, Q.C., for Seaboard Pulpwood Limited.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner.

CHASE, Commissioner.

The application in this case was filed with the Board under date of January 7th, 1955. The hearing was conducted in Moncton, N.B., on February 15th and 16th, 1955. During the interval, in line with its usual practice the Board directed one of its Engineers, in company with one of its Operating Inspectors, to make a thorough survey of that particular part of the line which the railways desire to abandon and to make a complete report with respect thereto.

DESCRIPTION AND HISTORY OF THE ALBERT SUBDIVISION OF THE CANADIAN NATIONAL RAILWAYS

The Albert Subdivision branches off from the Sussex Subdivision (Main Line, Moncton to St. John, N.B.) at Salisbury and runs to Albert, a distance of 44·8 miles. Hillsboro is 24·4 miles from Salisbury. The railways propose to continue operation of the Subdivision between Salisbury and Hillsboro and to abandon the line between Hillsboro and Albert, a distance of 20·4 miles.

No passenger or regular freight service is operated on the line. Freight trains are run on an "if, as and when" basis, generally being one round trip per week. The line is paralleled from Hillsboro to Albert by a main trunk highway known as Route 14.

The general background history of this line was given to the Board by Counsel for the railways, Mr. Macdougall. At pages 899, 900 and 901 of the transcript he stated:

"The Albert Railway Company was incorporated on April 13th, 1864, under a New Brunswick statute known as 27 Victoria Chapter 58, and the line was completed and put into operation about June 30th, 1877 between Salisbury and Hopewell, a distance of 51·57 miles. The property was sold under foreclosure on November 15th, 1888, and purchased by Robert Jones Griffiths of London, England, in the interests of the bondholders.

On October 10th, 1889, letters patent were issued by the Province of New Brunswick to Robert Jones Griffiths incorporating the Salisbury and Harvey Railway Company. This was confirmed by Dominion Act, 54-55 Victoria Chapter 100 on August 28th, 1891, and the railway was declared a work for the general advantage of Canada.

In September, 1898, a receiver was appointed on the application of the mortgage trustee. The rights and property of the Salisbury and Harvey Railway Company were sold under an order of the Supreme Court of Equity made on August 15th, 1899, and also another order of that court dated June 11th, 1907, respecting foreclosure of a mortgage, and were purchased by John D. Newton of New York City.

The Salisbury and Albert Railway Company was incorporated on April 7th, 1909, under Dominion Act, 8-9 Edward VII Chapter 131 with all the rights, franchises and privileges of the Salisbury and Harvey Railway Company and the sale of the Salisbury and Harvey Railway to John D. Newton was thereby confirmed.

An Act of the Federal Parliament was passed on April 15th, 1915, which we have referred to earlier in these proceedings, being 5 George V Chapter 16, authorizing the Minister of Railways to construct, purchase or lease any railway in the Maritime Provinces, which in his opinion can be better operated as a part of the Canadian Government Railway System.

Under Orders in Council dated May 22nd, 1918, and August 30th, 1918, and under authority of the above Act, an Agreement was entered into on April 10th, 1919, between the Government and the Salisbury and Albert Railway Company for $75,000 plus the outstanding accounts due to the Canadian Government Railways amounting to $74,785.82.

The railway extends from Salisbury, which is on the main line of the Canadian National today running between Moncton and Saint John, to Albert, a distance of 44·77 miles, and has been operated since purchase by the Government as part of the Canadian Government Railways entrusted for management and operation to the Canadian National Railways.

Certain subsidies were paid by the Province of New Brunswick and by the Dominion of Canada, totalling over half a million dollars towards the construction of this line. The municipalities of the parishes of Hillsboro, Hopewell and Harvey gave subsidies amounting to $40,000 and the parishes of Coverdale, Hillsboro, Hopewell and Harvey gave $30,000 making a total of $70,000 for the municipalities."

In support of the application, the railways submitted nine exhibits showing traffic handled, revenues and expenses, relating to the operation of the line between Hillsboro and Albert and relating to the Canadian National Railways' system as a whole for the years 1952, 1953 and 1954.

Exhibit 5 shows the carload traffic on and off the line as follows:

1952	539 carloads
1953	331 carloads
1954	355 carloads

From the above it will be noted that, taking the three years' operations, the carload traffic amounted to approximately one car per day.

With respect to revenues and expenses, reproduced below is Exhibit 8, which indicates the effect of the operation of the line in relation to the Canadian National system, and it will be noted that in order to earn $67,074 in the year 1954 it cost $83,813, leaving a net loss to the Canadian National system of $16,739.

EXHIBIT No. 8—CANADIAN NATIONAL RAILWAYS

Loss Incurred on Albert Subdivision, Hillsboro to Albert, N.B., 1952-1954, Inclusive

System Revenues	*1952*	*1953*	*1954*
Passenger	$ 5	$ 6	$ —
Freight	88,569	57,881	64,566
Express	1,715	2,323	1,650
Rentals and Miscellaneous	213	149	858
Total	$90,502	$60,359	$67,074
C.N.R. Out-of-Pocket Expenses			
Branch Line			
Train Service	$15,042	$13,801	$ 9,692
Mtce. of Equipment	4,323	3,158	2,839
Station Service	3,918	4,314	3,966
Mtce. of Way and Structures	27,895	36,205	36,857
Balance of System	*1952*	*1953*	*1954*
50% Operating Ratio on Off-Line Freight and Express	$41,523	$27,683	$30,459
Total	$92,701	$85,161	$83,813
System Loss	$ 2,199	$24,802	$16,739

Montreal, Quebec,
February 3, 1955.

Here it should be noted that the expenses shown on the above exhibit were what might be termed "bare bones" expenses, that is to say, no charges were made for supervision, depreciation, etc.

CONDITION OF ROADBED AND TRACK

In the report made to the Board by the Engineer and Operating Inspector and in evidence submitted during the hearing, it was stated, *inter alia,* that 70 per cent of the rail was of the 56* pound variety; 21 per cent, 85 pound; 8 per cent, 50 pound; and 1 per cent, 80 pound. The ballast is poor and very thin. 65 per cent of the ties are untreated and in poor condition.

The line in question is what is termed "Class E" track, the lowest in the category. Only the lightest locomotives used by the railways are operated on the line at a speed not exceeding 15 miles per hour, and cars used on the line are limited to those of 120,000 pounds gross weight. Maintenance of the line has been deferred, only a sufficient amount being performed each year to keep the line in safe operating condition, and at page 910 of the transcript it was stated that the deferred maintenance at the present time is estimated at about a quarter of a million dollars. At page 911 of the transcript it was stated that if the line were to be kept in operation, say, for the next twenty years, and maintained only to the Class E standard, the cost, including that relating to the buildings, structures and other facilities, would be in the vicinity of $1,300,000.

The case for the opponents can be summarized as follows:

Evidence was submitted showing that (1) the New Brunswick Marshland Reclamation Commission was engaged in reclaiming approximately 5,000 acres of marshland which it was stated would be used for agricultural purposes, with the anticipation that a beef cattle industry would be developed; (2) some 35 to 50 carloads of Christmas trees were shipped per annum. To haul these trees by truck would cost additional money or perhaps prevent the sale of the Christmas trees; (3) there were strong possibilities of an oil shale development which would utilize oil as a source of power; (4) a number of mining claims had been staked with prospects of producing one or more copper mines; (5) a certain amount of pulpwood was shipped by rail which would have to be hauled by truck if the line were abandoned, at possibly an increased cost.

Our comments with respect to the above mentioned points are: The evidence showed that it would take at least three years, and perhaps longer, to develop the agricultural land and to get to a point where there would be any beef cattle to be shipped. Moreover, there was no assurance that, even when that day should come, the cattle would be hauled by rail.

As to the Christmas trees, it was stated that they are shipped during a two-month period from approximately the beginning of October to the end of November. Even if there were 50 cars every year, it is not enough to warrant the continued operation of a railway.

With regard to the oil shale development, it does not appear as if it would bring any business to the railway other than perhaps hauling in some building material in the early stages.

The mining claims are merely prospects with no assurance of bringing any traffic to the railways.

In evidence it was stated that pulpwood was hauled by truck for several miles to get to the railway and we do not think, in view of what transpires in other parts of the country, that the pulpwood industry would be seriously hurt if they had to haul to Hillsboro.

SUMMARY

By totalling the system losses for the years 1952, 1953 and 1954, as shown in Exhibit 8, and dividing by three, the average loss per year amounts to $14,580. This is not a large sum but when the deferred maintenance is taken into account, which was said to be a quarter of a million dollars, and assuming that this deferred maintenance was caught up with within a period of ten years' time, it would require an expenditure of an additional $25,000 per annum, which added to the above mentioned $14,580, would produce an average loss of $39,580 per annum. This is without taking into consideration the estimate of $1,300,000 for maintenance based on the line being continued in operation for a further period of twenty years, which would result in a much higher figure indicating greater losses.

As we have stated in previous cases, the Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines. The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involves when imposed upon the railways. Here we would refer to some previous decisions as follows:

(1) C.N.R. Tweed Subdivision, year 1941, 53 C.R.C., p. 139. Abandonment of operation of the Tweed Subdivision between Yarkar and Tweed, Ontario, a distance of 33·94 miles. System saving if line abandoned $22,203. Application granted.

(2) C.N.R. Lakefield Subdivision, Ontario, year 1951, 66 C.R.C., p. 344. Abandonment of operation of 16·24 miles. System saving if line abandoned $31,392. Application granted.

(3) C.N.R. Westport Subdivision, Ontario, year 1952, 69 C.R.C., p. 136. Abandonment of operation of 40·51 miles. System saving if line abandoned $83,035. Application granted.

(4) C.N.R. Algonquin Subdivision, Ontario, Board's file No. 39310.17. Judgment dated January 17, 1955, not yet reported in C.R.C. Application to abandon 39·95 miles of the Algonquin Subdivision. System saving if line abandoned $97,109. Application granted.

(5) C.N.R., portion of the Scotia Subdivision, Nova Scotia. Board's file No. 39310.61. Judgment dated March 8, 1955 not yet reported in C.R.C. Application to abandon 5·24 miles into Pictou Landing. System saving if line abandoned somewhat in excess of $20,000 per annum. Application granted.

(6) C.N.R., portion of the Elgin Subdivision, New Brunswick. Board's file No. 39310.2. Judgment dated March 11, 1955 not yet reported in C.R.C. Application to abandon 13·5 miles between Petitcodiac and Elgin. System saving if line abandoned approximately $30,000 per annum. Application granted.

In the present case the mileage to be abandoned is 20·4 miles, with a system saving, on a very conservative estimate, of possibly $40,000 per annum. Considering the decisions in the cases mentioned above, the substantial loss to the railways and all that has been presented to the Board, we believe that the application for abandonment is justified. The loss to the railways outweighs the loss and inconvenience to the public.

True, there will be some inconvenience to the public, but as there is a good paved highway paralleling the railway they will not be left without other forms of transportation. There is not now sufficient traffic, present or prospective, to warrant the continuance of operation of that part of the railway concerned.

The application is approved and order will go accordingly.

A. SYLVESTRE.
H. B. CHASE.

March 25, 1955.

ORDER No. 85871

In the matter of the application of the Canadian National Railways under section 168 of the Railway Act and section 2(3) of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an Order granting them leave to abandon the operation of the following line of railway, namely: a portion of the Albert Subdivision in the Province of New Brunswick, between Hillsboro, mileage 24·4, and Albert, mileage 44·8, a total distance of 20·4 miles:

File No. 39310·64

MONDAY, the 28th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Moncton, Province of New Brunswick, on February 15 and 16, 1955, in the presence of counsel for the Canadian National Railways, the Province of New Brunswick, the County of Albert, certain citizens of Albert County and Seaboard Pulpwood Limited—

It is ordered that the abandonment of operation of the Canadian National Railways' line of railway, namely: that portion of their Albert Subdivision in the Province of New Brunswick, between Hillsboro, mileage 24·4, and Albert, mileage 44·8, a total distance of 20·4 miles, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

GENERAL ORDER No. 811

In the matter of specifications for highway crossing signals of the flashing light type:

File No. 27214.20

TUESDAY, the 15th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that, until further notice, signals of the flashing light type, used for the protection of highway traffic at a highway-railway level crossing shall conform to the following requirements:

1. In any case where the Board orders a highway crossing signal to be installed, a plan showing the layout must be filed for the approval of an Engineer of the Board.

2. A signal of the flashing light type shall be placed on each side of the tracks, and preferably to the right of approaching highway traffic and each signal shall have not less than four electric light units.

(*a*) The assembly of apparatus shall conform to Board's drawing entitled "Highway Grade Crossing Signals of the Flashing Light Type dated Feb. 15, 1955".

(*b*) Cantilever or bracket signal support, or left-hand signal, may be used where the standard assembly cannot be located in the proper place due to local conditions, or where the view is obstructed.

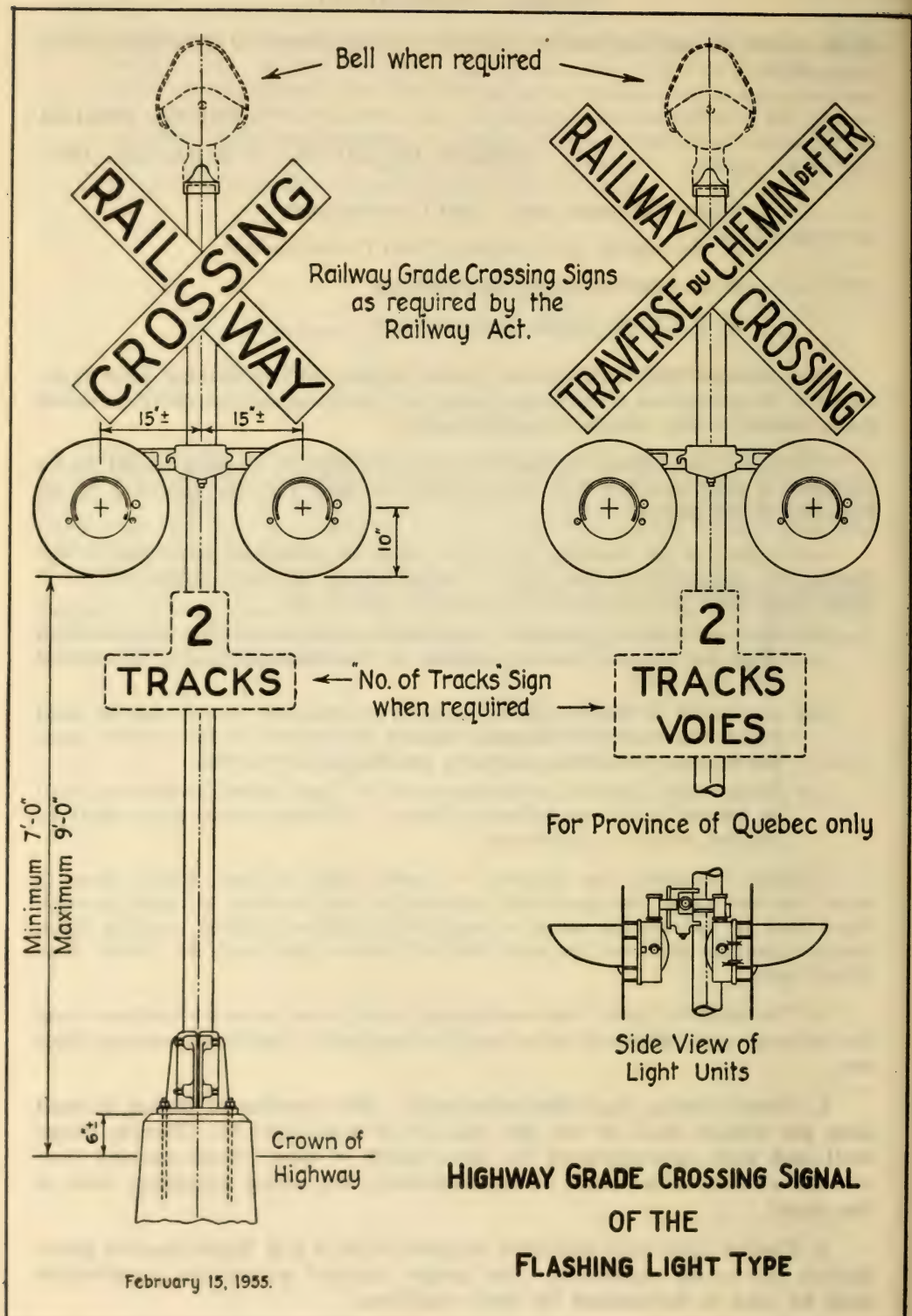
(*c*) Parts which function as background for light signal indications shall be painted with non-reflecting black. All other metal parts shall be painted white or aluminum.

3. Signs indicating the number of tracks shall be used where there is more than one track; the signs shall indicate the total number of tracks crossed. Signs shall be painted the same as required for highway grade crossing signs, except numerals shall be five and one-half inches high, and the letters four inches high.

4. Two electric lights from each signal shall shine in each direction along the highway and additional units may be required if conditions require their use.

5. Electric lamps shall flash alternately. The number of flashes of each lamp per minute shall be not less than 30 or more than 45. Electric lamps shall each burn approximately the same length of time. Total burning time of both electric lamps shall be approximately the entire operating time of the signal.

6. Electric light units used shall conform to the A.A.R. Signal Section specification 190 or the equivalent. The proper roundel within this specification shall be used as determined by local conditions.


Bell when required
RAIL WAY CROSSING
RAILWAY TRAVERSE DU CHEMIN DE FER CROSSING
Railway Grade Crossing Signs as required by the Railway Act.
15"±
15"±
10"
2
TRACKS
"No. of Tracks" Sign when required
2
TRACKS
VOIES
For Province of Quebec only
Minimum 7'-0"
Maximum 9'-0"
6"±
Crown of Highway
Side View of Light Units
HIGHWAY GRADE CROSSING SIGNAL OF THE FLASHING LIGHT TYPE
February 15, 1955.

7. Bell where required shall form part of the signal and shall be designed, as far as practicable, as to ensure proper operation during unfavourable weather conditions. Size and range of bell shall be determined by local conditions.

8. (*a*) Signals indicating the approach of a train shall operate for such period of time before the arrival of any train operated over the crossing as is reasonably required to protect highway traffic.

(*b*) Where the distance from the most remote signal to the clearance of the farthest track on which trains operate at medium or higher speed, as measured parallel to the centre line of the highway, is 35 feet or less, the signals shall operate for not less than twenty seconds before the arrival of any train on such track. Where the distance is more than 35 feet, the minimum time shall be increased by one second for each additional ten feet.

9. For trains in either direction on main tracks over which trains normally operate in either direction, and for trains moving with the current of traffic on main tracks over which trains normally operate in one direction only, signals shall operate until the rear of the train clears the crossing.

10. Where train speeds on a given track vary considerably, additional control circuits may be required with timing devices so arranged that a warning time, not too long for the slower trains, will be automatically selected.

(*a*) Cut-out controls may be required to prevent unnecessary operation of the signals when trains make regular operating stops or perform switching operations on the operating circuits.

(*b*) If such controls are automatically operated, circuits shall be so designed or train speed restricted as to ensure the required operating time of signals, when the train again proceeds towards the crossing.

(*c*) Automatic control of the signals actuated by approaching trains, other than the train that has stopped or is performing switching operations shall take preference over any cut-out feature.

(*d*) Means shall be provided to ensure restoring of the controls to automatic operation.

11. The normal functioning of any device shall not be interfered with in testing or otherwise without first taking measures to ensure safety of traffic which depends on the normal operation of such device.

12. Details of the signals, gates where required, operating mechanisms and control circuits shall be in accordance with A.A.R. recommended practice.

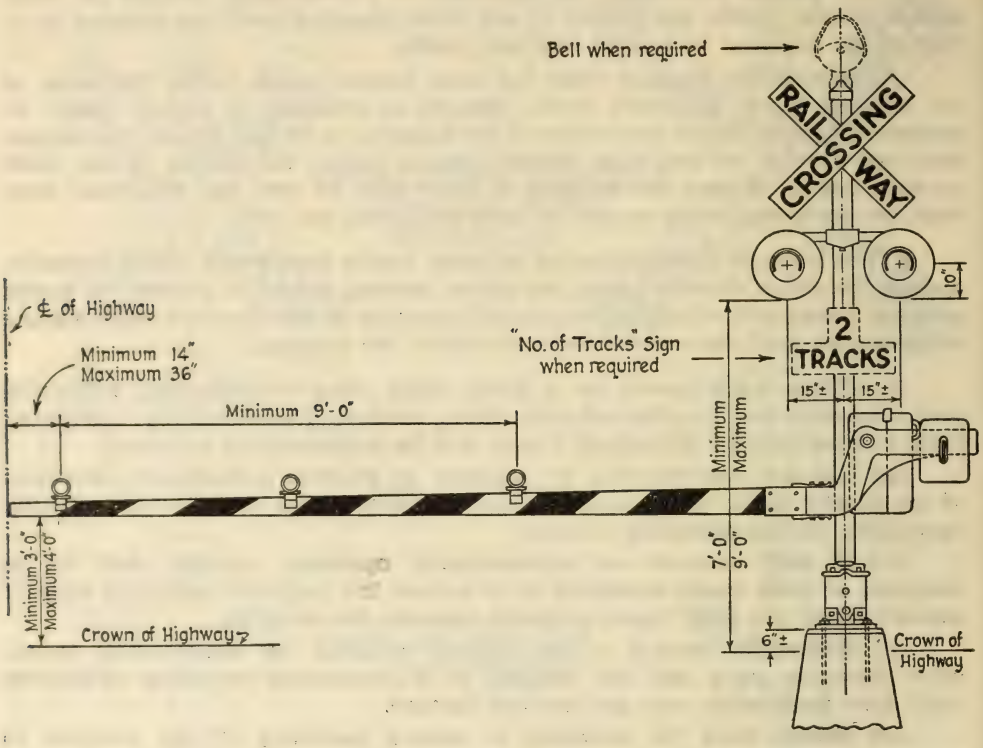
13. Gates may be required where they are necessary to provide proper protection of highway traffic.

14. The assembly of gate apparatus shall conform to Board's drawing entitled "Gates at Highway Crossings" dated February 15, 1955.

15. The gates shall be installed as adjuncts to signals of the flashing light type and the following requirements shall apply in addition to the requirements previously set out in this Order.

16. A gate shall be placed on each side of the track, preferably to the right of approaching highway traffic. When indicating the approach of a train, it shall present, toward approaching highway traffic, the aspect of an arm equipped with red lights being lowered across the lane or lanes used by traffic approaching the crossing or, at rest in a horizontal position across the lane or lanes.

17. They shall preferably be mounted on the same post as the flashing light signals. Each individual gate post shall be provided with independent operating mechanism. Each gate arm shall be equipped with not less than three red lamps arranged to shine in both directions along the highway. Lights shall operate at all times when the gate is in position to obstruct highway traffic.



GATES AT HIGHWAY CROSSINGS

February 15, 1955.

18. The light nearest the tip shall burn steadily, and the other lights shall flash alternately and in unison with the lights on the signal. The tip light shall be not less than fourteen inches or more than thirty-six inches from the tip of the arm.

19. The gate arms shall be painted on both sides with alternate diagonal stripes of black and white. The stripes shall be sixteen inches wide. All other parts shall be painted white or aluminum.

20. The gate arms, when not indicating the approach of a train, shall not obstruct or interfere with highway traffic.

21. The gate arms shall operate uniformly, smoothly, and complete all movements without rebound or slap, and be securely held when in raised position.

22. The mechanism shall be so designed that if the arms, while being raised or lowered, strike or foul any object, they will readily stop, and, on removal of the obstruction, shall assume the position corresponding with the control apparatus.

23. The design of the gate operating mechanism shall, so far as practicable, be such as to ensure proper operation during unfavourable weather conditions, and if out of order, the gate arms shall assume the horizontal position across the roadway.

24. Circuits for operation of the gates shall be so arranged that gates will start their downward motion not less than three seconds after the signal lights start to operate. Gate arms shall reach full horizontal position before any train on a main track reaches the crossing, and shall remain down until the rear of the train has cleared the crossing.

25. Signal and instrument cases shall be locked.

It is further ordered that the said regulations do not apply to an existing installation made prior to the date of this Order unless and until the type of protection thereat is changed.

It is also further ordered that General Orders No. 607, dated the 29th day of September, 1941, No. 676 dated the 29th day of November, 1945, and No. 680, dated the 16th day of February, 1946, be, and they are hereby rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner,

ORDER No. 85943

In the matter of the application of the Cooperative Agricole de Granby, of Granby, Quebec, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

TUESDAY, the 12th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods and preserved products, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered

1. That charges be, and they are hereby fixed for the Cooperative Agricole de Granby the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

2. That Order No. 84249, dated July 30, 1954, be, and it is hereby rescinded in respect to the fixing of a charge for account The Laurentide Dairy Products Corporation.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85954

In the matter of the application of Century Motors Limited, Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 83 as approved by the Board:

File No. 40994·71

WEDNESDAY, the 13th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Century Motors Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its automobiles, freight or passenger and automobile chassis from Walkerville and Windsor, Ontario, to Winnipeg, Manitoba, as set out in Agreed Charge C.T.C. (AC) No. 83, as approved by the Board—

It is ordered that a charge be, and it is hereby fixed, the same as the agreed charge published in Agreed Charge C.T.C. (AC) No. 83 for the transport, by the railway companies parties thereto, of automobiles, freight or passenger and automobile chassis, as described in paragraph B of the said Agreed Charge, shipped to Century Motors Limited, Winnipeg, Manitoba, from Walkerville and Windsor, Ontario, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charge so fixed shall come into operation on the 20th day of January, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85987

In the matter of marshalling equipment on passenger trains:

File No. 25657

MONDAY, the 18th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon the application of the Canadian National Railways dated April 13, 1955, for relief from compliance with the terms of General Order No. 707 in certain circumstances and with the recommendation of the Board's Director of Operation, it is ordered that the Canadian National Railways be exempted from compliance with the terms of paragraph 1, General Order No. 707 in respect only of its suburban trains operated in commuter service between Montreal and Dorval provided that all cars of such trains are of all steel construction.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85994

In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·32

MONDAY, the 18th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 305 be issued to the Applicant licensing for the period of one year commencing February 9, 1955, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

(*a*) Between Waterways and ports and places on Great Slave Lake and all intermediate points.

(*b*) Between ports and places on Lake Athabaska.

(*c*) Between ports and places on Lake Athabaska and ports and places described in (*a*) hereof.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Nor-Alta	158312	101
Nor-Basca	156571	30
Beaver Lake	171632	54
Cross Fox	157170	17
Liard River	150795	36
Dease Lake	156579	95

Barges	*Official Registry No.*	*Gross Tonnage*
MPC 21	175676	217
MPC 32	172331	195
MPC 33	175136	213
MPC 36	193252	350
HB 18	173710	53
HB 21	171649	195
HB 23	174968	192
HB 24	174969	64
HB 25	175551	64
HB 26	175552	149
HB 204	157172	275
HB 205	171648	271
HB 253	171637	190
HBC 208	175553	202

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 85999

In the matter of the application of North Star Oil Limited, of Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48 as approved by the Board:

File No. 40994·37

TUESDAY, the 19th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas North Star Oil Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of petroleum products, carloads, in tank cars, from Regina, Saskatchewan, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 48 for the transport by the railway companies parties thereto, of petroleum products, carloads, in tank cars, shipped by North Star Oil Limited from Regina, Saskatchewan, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86002

In the matter of the application of Robertsteel (Canada) Limited, of Hamilton, Province of Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 71 as approved by the Board:

File No. 40994·55

TUESDAY, the 19th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Robertsteel (Canada) Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of iron or steel bars, plates and sheets, carloads, from Hamilton, Ontario, to New Westminster, Vancouver and Victoria, B.C., as set out in Agreed Charge C.T.C. (AC) No. 71 as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 71 for the transport by the railway companies parties thereto, of iron or steel bars, plates and sheets, carloads, shipped by Robertsteel (Canada) Limited from Hamilton, Ontario, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86018

In the matter of the application of the Canadian Freight Association, dated March 15, 1955, for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) 79:

File No. 40994·68

WEDNESDAY, the 20th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) 79, on file with the Board under file No. 40994·68, be, and it is hereby approved; and that the date from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as March 16, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86021

In the matter of the application of Catelli Food Products, Ltd., of Montreal, Quebec, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 20th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods and preserved products, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed for Catelli Food Products, Ltd., the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, MARCH, 1955

Railway Accidents	166	Killed	6	Injured	170
Level Crossing Accidents ...	43	Killed	14	Injured	69
Total.....	209		20		239

	Killed	*Injured*
Passengers	—	28
Employees	3	130
Others	17	81
Total	20	239

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

New Brunswick

Killed	*Injured*	
—	1	Auto truck ran into side of train. Licence: N.B. C-30548.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Tractor drove onto crossing in front of approaching train and was struck. Licence: N.B. 4308.

Quebec

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 123-527.
—	1	Automobile struck track motor car. Licence: Que. 20-691.
—	4	Automobile ran into side of train. Licence: Que. 73-945.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 410-487.

Ontario

—	1	Auto truck ran into side of train. Licence: Ont. 33661-C.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 655-K-3.
—	1	Automobile ran into side of train. Licence: Ont. 59-D-97.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-56871.
—	1	Automobile ran into side of standing train. Licence: Ont. 39-S-93.
—	1	Automobile ran into side of train. Licence: Ont. F-4101.
—	1	Automobile ran into side of train. Licence: Ont. 908-832.
—	1	Automobile ran into side of train. Licence: Ont. 615-126.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 808-33-A.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 7613-G.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-5604.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 282-642.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. KN-392.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 749-352.
—	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 80-436-C.

MANITOBA

Killed	*Injured*	
1	1	Automobile ran into side of train. Licence: Man. 9-Y-151.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-16821.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 6-K-410.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. F-63-964.
—	1	Automobile stalled on crossing and was struck by train. Licence: Man. 69-875.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-42074.

SASKATCHEWAN

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F2-919.
—	19	Snowmobile School Bus drove onto crossing in front of approaching train and was struck. No licence given.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 70-984.
3	4	Automobile ran into side of train. Licence: Sask. 108-307.

ALBERTA

3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. TG-928.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. YY-678.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. 144-479.
1	—	Automobile stalled on crossing and was struck by train. Licence not given.

BRITISH COLUMBIA

—	2	Auto truck ran into side of train. Licence: B.C. C-18-111.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 17173.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-74-792.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 130-017.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.

Of the 43 accidents at highway crossings, 37 occurred at unprotected crossings, and 6 at protected crossings. Twenty-eight occurred after sunrise and fifteen after sunset.

OTTAWA, Ontario, April 29, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

85821 Mar. 23—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Paradise Hill, Saskatchewan.

85822 Mar. 23—Permitting the removal of slow order at C.N.R. crossing north of the station at Vandorf, Ontario.

85823 Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and John Murdoch.

85824 Mar. 23—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie du Téléphone Saguenay-Québec.

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Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and Price Brothers & Company Limited.

85830 Mar. 23—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Charlevoix & Saguenay.

85831 Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and the Consolidated Paper Corporation Limited.

85832 Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and the Consolidated Paper Corporation Limited.

85833 Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and the Consolidated Paper Corporation Limited.

85834 Mar. 23—Approving Service Station Contract between The Bell Telephone Company of Canada and the Consolidated Paper Corporation Limited.

85835 Mar. 23—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Sutherland Subdivision, Saskatchewan.

85836 Mar. 23—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Bulyea Subdivision, Saskatchewan.

85837 Mar. 23—In the matter of amendment to Order No. 82177, dated September 16, 1953, as amended by Order No. 83196, dated February 19, 1954, which authorized the installation of automatic protection at the crossing of the C.N.R. and Mountain Street, Granby, Quebec.

85838 Mar. 23—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Tyvan Subdivision, Saskatchewan.

85839 Mar. 23—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Wynyard Subdivision, Saskatchewan.

85840 Mar. 23—Exempting the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Indian Head Subdivision, Saskatchewan.

85841 Mar. 23—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Portal Subdivision, Saskatchewan.

85842 Mar. 23—Authorizing the C.P.R. to construct its Manitouwadge Lake Subdivision across the highway at mileage 1·8 Manitouwadge Lake Subdivision, Thunder Bay District, Ontario.

85843 Mar. 24—Approving proposed location of storage tanks, etc., of McLeod Propane, for the handling and storage of liquefied petroleum gas, near the C.N.R. tracks at Terrace, British Columbia.

85844 Mar. 24—Authorizing the C.P.R. to remove the station agent and appoint a caretaker-agent at Williamstown, Ontario.

85845 Mar. 24—In the matter of the application of the C.P.R., on behalf of the California Standard Company, for approval of facilities for loading crude oil into tank cars from tank trucks at Barnwell, Alberta.

85846 Mar. 24—Permitting the removal of slow order at C.P.R. crossing at Crumlin, Ontario.

85847 Mar. 24—Authorizing the B.C. Department of Public Works to construct the highway across the C.P.R. at mileage 8·80 Slocan Subdivision, British Columbia.

85848 Mar. 24—Extending the time within which certain protection is to be installed at C.P.R. crossing at mileage 30·9 Macleod Subdivision, Alberta.

85849 Mar. 24—Authorizing the Rural Municipality of Fairview No. 258, Sask., to construct a highway across the C.P.R. at mileage 7·5 Matador Subdivision, north of the Wartime Station grounds, Saskatchewan.

85850 Mar. 24—Authorizing the C.N.R. to construct an extension of their passing track across the road allowance at mileage 130·25 and the unopened road allowance at mileage 130·0 Bala Subdivision, at Dock Siding, Ontario.

85851 Mar. 24—In the matter of the application of the C.N.R. for approval of plan showing changes to the automatic protection at the crossing of their railway and King Street, Town of Port Colborne, Ontario.

85852 Mar. 24—Extending the time within which certain protection is to be installed at C.N.R. crossing of Manitoba Street, St. Thomas, Ontario.

85853 Mar. 24—Approving the discontinuance of the Lake Erie & Northern Railway Company and the Grand River Railway Company passenger train service over their line, effective April 24, 1955.

85854 Mar. 25—Authorizing the C.P.R. to replace its present timber trestle with a structural plate culvert at mileage 29·6 Walkerton Subdivision, Ontario.

85855 Mar. 25—Authorizing the Interprovincial Cold Storages Limited to construct a sewer pipe line under the tracks of the C.P.R. at mileage 1·68 Macleod Subdivision, Alberta.

85856 Mar. 25—Authorizing the Hamlet of Stewart Valley, Sask., to construct the highway across the C.P.R. at mileage 19·9 Stewart Valley Subdivision, Saskatchewan.

85857 Mar. 25—Authorizing the City of Red Deer, Alta., to relocate 53rd and 54th Avenues across the C.P.R.

85858 Mar. 25—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Dunrea, Manitoba.

85859 Mar. 25—Permitting the removal of slow order at C.N.R. crossing of Church Street, north of the station in the Town of Gravenhurst, Ontario.

85860 Mar. 25—Permitting the removal of slow order at C.P.R. crossing of Ninth Avenue, Kenora, Ontario.

85861 Mar. 25—Authorizing the C.P.R. to construct a siding across Kent Avenue South, Vancouver, B.C., to serve Evans Products Limited.

85862 Mar. 25—Permitting the removal of slow order at C.P.R. crossing north of the station at Gimli, Manitoba.

85863 Mar. 25—Authorizing clearances at C.N.R. engine-house tracks at Moncton, New Brunswick.

85864 Mar. 25—In the matter of application of Upper Lakes and St. Lawrence Transportation Company Limited, for a licence under section 10 of the Transport Act.

85865 Mar. 25—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the Chatham Rural Telephone Association.

85866 Mar. 25—In the matter of the application of The Bell Telephone Company of Canada for leave to construct its lines of telephone over certain public highway in the County of Kent, Ontario.

85867 Mar. 28—In the matter of the application of the British Columbia Telephone Company for an order approving the amount, terms and conditions of the issue and sale of certain capital stock.

85868 Mar. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Stenen, Saskatchewan.

85869 Mar. 28—Authorizing the City of St. Thomas, Ont., to widen Burwell Road where it crosses the C.P.R.

85870 Mar. 28—Authorizing the Ontario Department of Highways to construct Highway No. 17 over the C.P.R. by means of an overhead bridge, at mileage 121·52 White River Subdivision, Ontario.

85871 Mar. 28—Approving abandonment of operation of a portion of the C.N.R. Albert Subdivision, between Hillsboro and Albert, New Brunswick.

85872 Mar. 29—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Marwayne, Alberta.

85873 Mar. 29—In the matter of the approval of plan submitted by The Chesapeake and Ohio Railway Company showing proposed crude oil loading site approximately two and one-half miles west of Rodney, Ontario.

85874 Mar. 29—Permitting the removal of slow order at C.P.R. crossing and Elmhurst Street, east of station at Montreal West, City of Montreal, Quebec.

85875 Mar. 30—In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, C.N.R. and C.P.R., on petroleum products as therein specified in carloads, tank cars only from Moose Jaw, Saskatchewan, to points in Manitoba.

85876 Mar. 30—Authorizing the C.N.R. to construct a branch line of railway to serve an industrial area in the City of North Vancouver, British Columbia.

85877 Mar. 30—Approving Standard Mileage Freight Tariff C.T.C. No. 261, of the Canada Steamship Lines, Limited.

85878 Mar. 30—In the matter of the application of the C.P.R. for approval of Standard Mileage Freight Tariff C.T.C. No. E. 5240, cancelling C.T.C. No. E. 5210.

85879 Mar. 30—In the matter of the application of the Northwest Steamships Limited for approval of Standard Mileage Freight Tariff C.T.C. No. 53, cancelling C.T.C. No. 51.

85880 Mar. 30—In the matter of the application of the C.N.R. for approval of revised plan showing protection as installed at the crossing of their Railway and Highway No. 21, Allenford, Ontario.

85881 Mar. 30—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Carruthers, Saskatchewan.

85882 Mar. 30—Permitting the removal of slow order at C.P.R. crossing and Broadway Street, west of station at Carnduff, Saskatchewan.

85883 Mar. 31—Amending Order No. 82301, dated October 6th, 1953, in the matter of the application of the Ontario Department of Highways authorizing the construction of two temporary highway crossings over the C.P.R., at mileage 10·87, Galt Subdivision.

85884 Mar. 30—In the matter of the application of Western Pipe Lines and Niagara Gas Transmission Limited, for an Order granting leave to Western to lease to Niagara and to Niagara to lease from Western the Company pipe line of Western, which commences at a point on the International Boundary in the Niagara River near Lewiston Bridge and terminates at a point in the vicinity of the Western Boundary, Peel County near the Village of Sheridan, Ontario.

85885 Mar. 31—Permitting the removal of slow order at C.N.R. crossing north of station at Ayton, Ontario.

85886 Mar. 31—Approving plan showing protection as installed at the C.N.R. crossing and Highway at mileage 73·5 Wabamun Subdivision, Alberta.

85887 Mar. 31—Authorizing the C.P.R. to make changes to the signals at Exshaw, Alberta.

85888 Mar. 31—In the matter of the application of the Great Northern Railway Company for approval of restricted clearances at the proposed depressed track in the Applicant Company's warehouse at its Burrard Inlet Dock, Vancouver, British Columbia.

85889 Mar. 31—Permitting the removal of slow order at C.P.R. crossing near Rhyl, Saskatchewan.

85890 Mar. 31—Permitting the removal of slow order at C.N.R. crossing, first public crossing west of station at Stony Plain, Alberta.

85891 Mar. 31—Permitting the removal of slow order at C.P.R. crossing and Moose Street, east of station at Moosemin, Saskatchewan.

85892 Mar. 31—Permitting the removal of slow order at C.P.R. crossing and 18th Street, in the City of Owen Sound, Ontario.

85893 Mar. 31—Permitting the removal of slow order at C.P.R. crossing and Henderson Avenue, west of station at Birds Hill, Manitoba.

85894 Mar. 31—Permitting the removal of slow order at C.P.R. crossing north of station at Brockville, Ontario.

85895 Mar. 31—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

85896 Apr. 4—Approving proposed location of storage tank, etc. of the C.N.R. near their tracks at Belleville, Ontario.

85897 Apr. 4—Permitting the removal of slow order at The Algoma Central & Hudson Bay Railway crossing north of station at Wyborn, Ontario.

85898 Apr. 4—Authorizing the C.P.R. to replace the existing bridge span over Highway No. 69 at Bala, Ontario.

85899 Apr. 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the tracks of the Northern Alberta Railways Company at Boyle, Alberta.

85900 Apr. 4—In the matter of the application of Colonial Steamships, Limited, for a licence under section 10 of the Transport Act.

85901 Apr. 4—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 17 to Agreed Charge C.T.C. (AC) No. 14.

85902 Apr. 4—Approving clearances at five locations on the yard trackage of the Three Rivers Mill of St. Lawrence Corporation Limited at mileage 80·99 Trois Rivieres Subdivision, C.P.R.

85903 Apr. 5—Permitting the removal of slow order at C.N.R. crossing and Provincial Highway No. 83 west of station at Benito, Manitoba.

85904 Apr. 5—In the matter of the application of Volkswagen Canada Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 76.

85905 Apr. 5—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Bonnyville, Alberta.

85906 Apr. 5—In the matter of the approval of plan submitted to the C.N.R. by the Great Plains Development Company of Canada, Limited, and Socony-Vacuum Oil Company of Canada, Limited, showing the proposed location of pipe lines and tank car loading points for the loading of crude oil at Taylor Siding, Alberta.

85907 Apr. 5—In the matter of the approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of pipe lines, etc. at Colinton, Alberta.

85908 Apr. 5—Authorizing the County of Waterloo, Ontario, to construct the highway across the C.N.R. at mileage 8·96, Waterloo Subdivision, Ontario.

85909 Apr. 5—In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay for a licence under section 10 of the Transport Act.

85910 Apr. 5—In the matter of the application of the Canadian Industrial Traffic League, Inc., and the Canadian Manufacturers' Association Inc., for an Order approving the French text of General Order No. 792, dated January 22, 1954.

85911 Apr. 5—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Bethesda and Stouffville Telephone Company Limited.

85912 Apr. 5—Authorizing the C.N.R. to abandon the operation of the portion of the Alliston Subdivision, Ontario, between Alliston and Creemore, Ontario.

85913 Apr. 5—In the matter of the application of the Chesapeake and Ohio Railway Company for an Order amending Order No. 84809, dated October 22, 1954, which approved the loading of crude oil from tank trucks to tank cars, by Mr. J. A. Beattie, on its trackage at Rodney, Ontario.

85914 Apr. 5—Approving the proposed location of an 8-inch dock pipe line of McColl-Frontenac Oil Company, Limited, near C.N.R. tracks at Deepwater, Halifax, Nova Scotia.

85915 Apr. 5—Relieving the C.P.R. from erecting and maintaining railway fencing along the east side of its right-of-way between mileages 23·1 and 29·93 Outlook Subdivision, Saskatchewan.

85916 Apr. 5—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Carlyle, Saskatchewan.

85917 Apr. 6—Authorizing the City of Calgary, Alberta, to construct the highway across the C.P.R. at mileage 2·47 Red Deer Subdivision, Alberta.

85918 Apr. 6—Permitting the removal of slow order at C.P.R. crossing east of station at Lonsdale, Ontario.

85919 Apr. 6—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of Pheasant Hills Branch of the C.P.R. and the Touchwood Subdivision of the C.N.R., near Nokomis, Saskatchewan.

85920 Apr. 6—Permitting the removal of slow order at the Esquimalt & Nanaimo Railway crossing and Admiral Road in the District of Esquimalt, British Columbia.

85921 Apr. 6—Authorizing the C.P.R. to discontinue passenger service between Coronation and Lacombe, Alberta.

85922 Apr. 6—Approving Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 80 upon application of the Canadian Freight Association.

85923 Apr. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Hodgeville, Saskatchewan.

85924 Apr. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Strathmore, Alberta.

85925 Apr. 7—Approving proposed location of storage tanks, etc. of C.N.R. near their tracks at Sydney, Nova Scotia.

85926 Apr. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Consort, Alberta.

85927 Apr. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Innisfree, Alberta.

85928 Apr. 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Cando, Saskatchewan.

85929 Apr. 7—Requiring the C.N.R. to install certain protection in lieu of the present manually controlled gates at the crossing of their railway and Ottawa Street, Hamilton, Ontario.

85930 Apr. 7—Authorizing the Quebec Department of Roads to relocate and widen Highway No. 8 where it crosses the C.P.R. at mileage 54·3 Waltham Subdivision, Quebec.

85931 Apr. 7—Requiring the C.P.R. to install certain protection in lieu of the present protection by watchman at the crossing of its railway and Adelaide Street, London, Ontario.

85932 Apr. 7—Approving Supplement No. 2 to Traffic Agreement between the Bell Telephone Company of Caanda and the telephone system of the Municipality of the Township of North Easthope.

85933 Apr. 7—Authorizing the C.N.R. to use the bridge over the canal at mileage 45·24 Middleton Subdivision, Nova Scotia.

85934 Apr. 7—Authorizing the C.N.R. to construct and maintain an industrial lead track to connect with the "J" yard lead track of the C.P.R. in the City of Winnipeg, Manitoba.

85935 Apr. 12—Requiring the C.N.R. to install certain protection at St. Leger Street, Kitchener, Ontario.

85936 Apr. 12—Permitting the removal of slow order at C.P.R. crossing in the Town of St. Stephen, New Brunswick.

85937 Apr. 12—Requiring the C.P.R. to improve the sight lines in the northwest and southwest angles of the crossing of its railway and the highway (Wade's Crossing), near Darlington, Ontario.

85938 Apr. 12—Requiring the C.N.R. to install certain protection at the crossing of their railway and Gage Avenue, Hamilton, Ontario.

85939 Apr. 12—Requiring the Great Northern Railway Company to install certain protection at the crossing of Brunette Street in the City of New Westminster, British Columbia.

85940 Apr. 12—Requiring the C.N.R. to improve the approach grades at the crossing of their railway and the highway at mileage 6·52, Campbellford Subdivision, Ontario.

85941 Apr. 12—Authorizing the Municipality of Metropolitan Toronto, Ontario, to construct a sewer line under the company pipe line of the Trans-Northern Pipe Line Company, Township of Etobicoke, Ontario.

85942 Apr. 12—Requiring the Chesapeake and Ohio Railway Company to install certain protection at the crossing of Lindsay Road and certain other protection at the crossing of 9th Concession Road at Turnerville Station, Ontario.

85943 Apr. 12—In the matter of the application of the Cooperative Agricole de Granby, Quebec, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

85944 Apr. 12—Authorizing the Saskatchewan Department of Highways to construct Provincial Highway No. 1 across the C.N.R. at mileage 90·21 Glenavon Subdivision, Saskatchewan.

85945 Apr. 12—Requiring the C.N.R. to install certain protection in the vicinity of the crossing of Highway No. 17 at mileage 110·4 Sudbury Subdivision, Ontario.

85946 Apr. 12—Requiring the C.N.R. to install certain protection at the crossing of Lottridge Avenue, in the City of Hamilton, Ontario.

85947 Apr. 13—Authorizing the Ontario Department of Highways to cross the C.P.R. by means of an overhead bridge at mileage 26·71 Brockville Subdivision, Ontario.

85948 Apr. 13—Requiring the C.N.R. to install certain protection at crossing of the interchange track of the C.N.R. and the C.P.R. and Florence Street, in the City of London, Ontario.

85949 Apr. 13—Requiring the C.N.R. to install certain protection at the crossing of Albert Street and their railway, Regina, Saskatchewan.

85950 Apr. 13—Authorizing the C.N.R. to install certain protection at the crossing of Sherman Avenue, Hamilton, Ontario.

85951 Apr. 13—Requiring the C.P.R. to install certain protection at the crossing of their railway and Route No. 18, in the Town of St. Vincent de Paul, Quebec.

85952 Apr. 13—Authorizing the C.P.R. to replace the pile trestle with culverts at mileage 14·3 Minnedosa Subdivision, Manitoba.

85953 Apr. 13—Permitting the removal of slow order at C.P.R. crossing at Tyson, Saskatchewan.

85954 Apr. 13—In the matter of the application of Century Motors Limited, Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 83.

85955 Apr. 13—Requiring the C.P.R. to install certain protection in lieu of the existing protection at each of the crossings of Speedvale Avenue and Woolwich Street, Guelph, Ontario.

85956 Apr. 13—Approving Drawing No. SD. 3487.A showing automatic protection relocated at Ottawa Street subway, Hamilton, Ontario. (C.N.R.)

85957 Apr. 13—Authorizing the C.N.R. to construct an additional track across Brookdale Avenue, Township of Cornwall, Ontario.

85958 Apr. 13—Approving new substructure and approach trestle for the bridge of the C.P.R. at mileage 53·6 Emerson Subdivision, Manitoba.

85959 Apr. 13—Permitting the removal of slow order at C.P.R. crossing and Whyte Avenue, west of station at Lambton Park, Alberta.

85960 Apr. 13—Requiring the C.P.R. to install certain protection at the crossing of Church Street at Val David, Quebec.

85961 Apr. 13—In the matter of the application of the C.N.R. for approval of plan showing location of the gates as installed at the crossing of their railway and Hardy Road, Brantford, Ontario.

85962 Apr. 13—Authorizing the Saskatchewan Department of Highways and Transportation to construct the highway across the C.P.R. at mileage 86·17 Tyvan Subdivision, Saskatchewan.

85963 Apr. 14—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 6, Black Capes, Quebec.

85964 Apr. 14—Authorizing the Quebec Department of Roads to widen highway where it crosses the C.N.R. at mileage 83·01 Montmagny Subdivsion, Quebec.

85965 Apr. 14—Authorizing the C.N.R. to reconstruct the bridge at mileage 19·6 Sherbrooke Subdivision, Quebec.

85966 Apr. 14—Authorizing the C.N.R. to use the bridge over Gold Creek, Ontario, at mileage 7·5 Maynooth Subdivision.

85967 Apr. 14—Permitting the removal of slow order at C.N.R. crossing south of the station at Letellier, Manitoba.

85968 Apr. 14—Requiring the C.N.R. to install certain protection at crossing of Highway No. 9 at mileage 40·37 Drumheller Subdivision, Alberta.

85969 Apr. 14—Requiring the C.N.R. to isstall certain protection at the crossing of the C.P.R. and the C.N.R. interchange track and Dundas Street, London, Ontario.

85970 Apr. 14—Requiring the C.N.R. to install certain protection at the crossing of Poirier Street in the Municipality of Charny, Quebec.

85971 Apr. 14—Requiring the C.N.R. to install certain protection at the crossing of St. George Street, St. Thomas, Ontario.

85972 Apr. 14—Authorizing the C.N.R. to use the bridge over Long Lake Creek, Ontario, at mileage 4·3 Maynooth Subdivision.

85973 Apr. 14—Requiring the C.N.R. to install certain protection at the crossing of King Street in the Village of Hensall, Ontario.

85974 Apr. 14—Authorizing the County of Middlesex, Ontario, to improve the sight lines at the crossing of the highway and the C.P.R. at mileage 10·52 Windsor Subdivision, Ontario.

85975 Apr. 14—Requiring the C.P.R. to install certain protection at the crossing of Jacques Cartier Street near station at Farnham, Quebec.

85976 Apr. 14—Authorizing the C.N.R. to extend the approach circuit for the protection of highway at Val St. Michel, Quebec.

85977 Apr. 14—In the matter of the application of the C.P.R. for approval of revised plan showing protection at crossing of their railway and highway at mileage 30·96 Macleod Subdivision, Alberta.

85978 Apr. 14—Authorizing the C.N.R. to disconnect the bell of the protective device at the crossing of their railway and Wilson Street, Hamilton, Ontario.

85979 Apr. 14—Authorizing the Great Northern Railway Company to construct its siding across Boundary Road in the City of Vancouver in the Municipality of Burnaby, British Columbia.

85980 Apr. 14—Authorizing the Ontario Department of Highways to relocate Highway No. 98 where it crosses the Chesapeake and Ohio Railway Company at mileage 6·2 No. 1 Subdivision, Ontario.

85981 Apr. 14—Requiring the C.N.R. to install certain protection at the crossing of Albert Street at mileage 93·5 Qu'Appelle Subdivision, Saskatchewan.

85982 Apr. 14—Requiring the C.P.R. to install certain protection at the crossing of 55th Avenue, Lachine, Quebec.

85983 Apr. 14—Extending the time within which certain protection is to be installed by the C.N.R. at the crossing of Depot Street in the Town of Grimsby, Ontario.

85984 Apr. 14—Requiring the C.N.R. to install certain protection at the first crossing east of the station at Cabano, Quebec.

85985 Apr. 15—Authorizing the Township of Scarborough, Ontario, to improve the sight lines at the C.P.R. crosing of Brimley Road, Township of Scarborough, Ontario.

85986 Apr. 15—Authorizing the C.P.R. to replace the timber trestle in the bridge at mileage 37·8 Macleod Subdivision, Alberta.

85987 Apr. 18—In the matter of marshalling equipment on passenger trains.

85988 Apr. 18—Permitting the removal of slow order at C.P.R. crossing east of station at Port Coquitlam, British Columbia.

85989 Apr. 18—Authorizing The Bell Telephone Company to construct its line of telephone across certain public highways in the Corporation of the Township of Harwich, County of Kent, Ontario.

85990 Apr. 18—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Lanigan Subdivision, Saskatchewan.

85991 Apr. 18—Requiring the C.P.R. to install certain protection at the crossing of its railway and Highway No. 16 at mileage 167·2 Willingdon Subdivision, Alberta.

85992 Apr. 18—Requiring the C.P.R. to install certain protection at the crossing of its railway and Highway No. 3 near Maunsell, Alberta.

85993 Apr. 18—Requiring the C.P.R. to install certain protection at the crossing of Lesperance Road between the Town of Tecumseh and King's Highway No. 2, Ontario.

85994 Apr. 18—In the matter of the application of the McInnes Products Corporation Limited, Edmonton, Alberta, for a licence under section 10 of the Transport Act.

85995 Apr. 18—Requiring the C.N.R. to install certain protection at the crossing of Woodward Avenue, Hamilton, Ontario.

85996 Apr. 18—Authorizing the C.P.R. to extend the operating circuits for the automatic protection installed at the crossing of the highway north of the north siding switch at Cayley, Alberta.

85997 Apr. 18—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 15 at mileage 0·36 Coronado Subdivision, Alberta.

85998 Apr. 19—Authorizing the C.P.R. to extend the operating circuits of the automatic protection installed at the crossing of its railway and Highway No. 3 near Whitla, Alberta.

85999 Apr. 19—In the matter of the application of the North Star Oil Limited, of Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48.

86000 Apr. 19—Approving Memorandum of Agreement between The Bell Telephone Company of Canada and the Canadian Marconi Company.

86001 Apr. 19—Authorizing the C.P.R. to extend the operating circuits of the automatic protection installed at the crossing of its railway and River Avenue at Okotoks, Alberta.

86002 Apr. 19—In the matter of the application of Robertsteel (Canada) Limited of Hamilton, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 71.

86003 Apr. 20—Approving the details of the station buildings, etc. proposed to be erected by the C.N.R. at Oakville, Ontario.

86004 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Rush Lake, Saskatchewan.

86005 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Oxbow, Saskatchewan.

86006 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Fiske, Saskatchewan.

86007 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Yellow Creek, Saskatchewan.

86008 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Meadow Lake, Saskatchewan.

86009 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Coronation, Alberta.

86010 Apr. 20—Rescinding Order No. 85830, dated March 23, 1955, in connection with approval of Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone de Charlevoix & Saguenay.

86011 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Leoville, Saskatchewan.

86012 Apr. 20—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.P.R. tracks at Duval, Saskatchewan.

86013 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Herschel, Saskatchewan.

86014 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Langham, Saskatchewan.

86015 Apr. 20—Requiring the C.P.R. to install certain protection at the crossing of its railway and the C.N.R. at 63rd Avenue near 102nd Street, Edmonton, Alberta.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, JUNE 1, 1955 No. 5

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In the matter of the application of the Canadian National Railway Company, under Section 168 of the Railway Act and Section 2, Subsection 3 of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions, for an Order granting it leave to abandon the operation of the following line of railway, namely:

A portion of the Alliston Subdivision, Ontario, between Alliston (mileage 5.1 and Creemore (mileage 23.6), a total distance of 18.5 miles.

File No. 39310.63

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Collingwood, Ontario, on March 16th and 17th, 1955.

Appearances:

W. G. BOYD and H. J. G. PYE, for the Canadian National Railways.

J. D. BOWERMAN, for the Town of Alliston, Township of Tossorontio and two private individuals.

J. H. SHEPHERD, for the Town of Creemore.

W. J. PATTON, Reeve of Nottawasaga Township.

55908—1

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner.

H. B. CHASE, Commissioner.

The application in this case was filed with the Board under date of July 15th, 1954. The hearing was conducted in Collingwood, Ontario, on March 16th and 17th, 1955. Shortly after the application was filed and in line with its usual practice, the Board directed one of its Engineers, in company with one of its Operating Inspectors, to make a thorough survey of that particular part of the line which the railways desire to abandon and to make a complete report with respect thereto.

DESCRIPTION AND HISTORY OF THE ALLISTON SUBDIVISION OF THE CANADIAN NATIONAL RAILWAYS

The Alliston Subdivision branches off from the Milton Subdivision (Branch Line, Hamilton to Allandale, Ontario) at Allimill, 1.5 miles north of Beeton and runs to Collingwood, Ontario, a distance of 40 miles. The railways propose to continue some operation on the line from Beeton through Allimill to Alliston, a distance of 6.6 miles on the south end of the Subdivision and between Collingwood and Creemore, a distance of 16.4 miles on the north end of the Subdivision, and to abandon the line between Alliston and Creemore, a total distance of 18.5 miles.

The service on the line consists of a mixed train in each direction daily except Sunday.

The general background history of this line was given to the Board by Counsel for the railways, Mr. W. Boyd. At pages 1351 and 1352 of the transcript Mr. Boyd stated:

> "I think it is customary in applications of this kind to open the proceedings by giving a short history of the line which is in question, the subject matter of the application.
>
> In this case our records indicate that the Hamilton and Northwestern Railway Company was incorporated in 1872 by statute of the Province of Ontario which authorized the construction of a line of railway from a point near the City of Hamilton on the shore of Burlington Bay through the counties of Wentworth, Halton, Peel and Simcoe, to a point on one of the bays bordering on the Township of Tay.
>
> Pursuant to that authority given by the statutes, capital stock was raised of some $600,000 and the company was authorized to construct a branch from any point on its main line within the County of Simcoe to the water's edge of Lake Huron in the Town of Collingwood.
>
> This branch was completed and opened for traffic in 1878 and in 1879 and it is a portion of this branch that it is now proposed to abandon between Alliston and Creemore, a distance of 18.5 miles.
>
> There were two agreements in 1879 relating to this railway by which the Hamilton and Northwestern Railway Company and the Northern Railway agreed to operate both railways by a joint executive committee under the title of the 'Northern and Northwestern Railway Company', but each company retained its corporate existence until amalgamation with the Grand Trunk Railway Company of Canada in 1888.

That is a short statutory history of the line which is the subject matter of this application. The application, of course, is for authority to abandon the 18.5 miles referred to between Alliston and Creemore and certain changes in train service on the remaining portion of the line which are also involved."

In their application, the railways submitted the following proposed scheme of operation with the proposed abandonment:

(1) Cancel Mixed Trains 391 and 394 running daily except Sunday between Beeton and Collingwood.

(2) The Hamilton-Allandale Wayfreight to be operated into Alliston three days per week to handle carload and less carload traffic.

(3) An extra wayfreight train to be operated from Allandale to Creemore via Collingwood and return, once a week.

(4) A truck service to be operated six times a week, twice a day, between Beeton and Alliston to handle express and less carload traffic.

(5) A truck service to be operated six times a week, once a day, between Collingwood and Creemore to handle express and less carload traffic.

(6) Complete withdrawal from mail and passenger services between Beeton and Alliston and between Collingwood and Creemore.

In support of their application, the railways submitted ten exhibits showing traffic handled, revenues and expenses, etc., relating to the operation of the line between Alliston and Creemore and relating to the Canadian National Railways System as a whole for the years 1950, 1951, 1952, 1953 and 1954. We will refer to a few of these exhibits. Exhibit 3 shows the carload traffic on and off the line—or rather, in and out—as follows:

1950:	In 28;	Out 4.	Total 32.
1951:	In 31;	Out 12.	Total 43.
1952:	In 29;	Out 23.	Total 52.
1953:	In 29;	Out 4.	Total 33.
1954:	In 29;	Out. 0.	Total 29.

From the above it will be noted that in a period of five years the carload traffic amounted to an average of about 38 cars per annum. Moreover, during the year 1954 not a solitary carload of traffic originated on the line.

With respect to the revenues and expenses, reproduced below is Exhibit 8, which indicates the effect of the operation of the line in relation to the Canadian National System, the additional expenditures which would be incurred due to the operation of supplementary truck service, etc., and it will be noted that after giving consideration to all of the expenditures involved, it is estimated that if the line were abandoned and the truck service, etc., were to be put into operation, the net annual saving to the Canadian National System would be $64,164. We should add that the expenses shown on Exhibit 8 were what might be termed "bare bones" expenses, that is to say, no charges were made for supervision, depreciation, etc.

EXHIBIT No. 8: CANADIAN NATIONAL RAILWAYS

Loss Incurred on Alliston Subdivision, Alliston to Creemore, Ont., 1950 to 1954 Inclusive

Revenues (System)

	1950	*1951*	*1952*	*1953*	*1954*
	$	$	$	$	$
Between Alliston and Creemore					
Passenger	1,191	1,346	1,144	1,052	1,000
Freight	6,116	8,047	7,771	7,516	6,946
Express	985	1,307	1,865	1,705	1,568
Mail	2,493	1,519	657	650	746
Miscellaneous	46	127	78	46	50
Revenues that would be lost through curtailment of train service on balance of line					
Passenger	1,809	1,654	1,966	2,049	1,978
Freight (at Alliston)	30,688	37,700	30,101	36,112	26,434
Freight (Between Collingwood and Creemore)	10,944	13,445	11,888	11,940	8,525
Mail	3,327	2,021	1,189	1,150	1,000
Total Revenue	57,599	67,166	56,659	62,220	48,247

Expenses (Out-of-Pocket)

Branch Line—Between Alliston and Creemore					
Train Service	30,570	32,530	33,760	35,610	33,090
Maintenance of Equipment	12,430	13,220	14,040	14,930	11,550
Station Service					
Maintenance of Way and Structures	21,570	28,100	43,210	53,990	58,150
Taxes	300	300	300	300	300
Off-Line-Balance of System 50% Operating Ratio					
Freight (between Alliston and Creemore)	2,936	3,863	3,731	3,608	3,334
Express (between Alliston and Creemore)	443	588	839	767	706
Freight (at Alliston)	13,810	16,965	13,545	16,250	11,895
Freight (between Collingwood and Creemore)	4,925	6,050	5,350	5,373	3,836
Total Expenses	86,984	101,616	114,775	130,828	122,861
ANNUAL SYSTEM LOSS	29,385	34,450	58,116	68,608	74,614
Additional Annual Expenditures Due to Abandonment					
Supplementary Truck Service	5,000	6,250	7,500	7,500	7,500
Maintenance of Wyes at Alliston and Creemore	1,000	1,000	1,200	1,250	1,150
4% Interest on Capital Cost of Wyes	1,800	1,800	1,800	1,800	1,800
Total	7,800	9,050	10,500	10,550	10,450
Net Annual Saving due to Abandonment	21,585	25,400	47,616	58,058	64,164

Montreal, Quebec, March 14, 1955.

Condition of Roadbed and Track

In the report made to the Board by the Engineer and Operating Inspector and in evidence submitted during the hearing, it was stated, *inter alia,* that 12·6 miles of the track consisted of 56-pound rail, 3·3 miles of 65-pound rail, which has been in service for seventy-three years, 1 mile of 70-pound rail, 1½ miles of 80-pound rail, and ·06 mile of 85-pound rail. The ballast is poor and very thin. The ties are in a fair condition.

In railway parlance there are five classifications of track: A, B, C, D and E. The line in question is the lowest of all, namely, Class E. Only light locomotives can be operated on the line at a speed not exceeding twenty miles per hour and the weight limit of cars used on the line is 169,000 pounds gross weight. Maintenance of the line has been deferred for many years, only a sufficient amount being performed each year to keep the line in safe operating condition.

At page 1357 of the transcript a witness for the railways stated that if the line is not abandoned, $10,600 would have to be spent on bridges alone for the year 1955. At pages 1362 and 1363 of the transcript the same witness stated:

> "The ties are—practically about 90 per cent of them are in mud ballast and that would require completely re-ballasting, which would take probably about two seasons to do it properly at a cost of about $74,000. The rail is long past renewal but we have never been able to get authority to renew the rail on account of the fact that there has not been enough traffic to feed the line. The replacement of that rail would give us a cost of maintenance of $74,500. That does not involve the capital cost, there is another capital cost of about $96,000 which would have to be taken care of otherwise, but that against maintenance would be $74,500."

Highways, Bus and Truck Services

The Board's file indicates that Provincial Highways Nos. 27 and 89 connect Allandale and Barrie with Alliston. Township roads of improved gravel construction and in a good state of repair connect all other points except Duntroon and Nottawa, which are linked up with Collingwood by Provincial Highway No. 24. All roads are ploughed in the wintertime.

All points on the Alliston Subdivision, with the exception of Allimill, Thompsonville, Tioga and Lake Junction are served by commercial truck operators, none of which, however, serves all stations. The only community on the line served by bus is Alliston.

For the opponents, two witnesses were heard, one from Alliston and one from Everett. Mr. L. L. Whiteside, Clerk of the Town of Alliston, contended that the abandonment of the line would be very harmful to Alliston, inasmuch as it would have a deterring effect upon new industries who might desire to locate in Alliston.

In our opinion, and for the following reasons, we do not consider that much weight can be given to Mr. Whiteside's evidence. Alliston will still be served by the Canadian National Railways and, in addition, it is served by the Canadian Pacific Railway Company. As a matter of fact, Alliston is nearer to Toronto by way of the C.P.R. than it is by way of the C.N.R., the distance being approximately 50 miles by C.P.R. and 70 miles by C.N.R.

Mr. J. Alderson, who operates a coal business at Everett, explained to the Board that the abandonment of the line might result in putting him out of business entirely. He appears to be one of the best patrons of the railway and if the line were abandoned he would, in all probability, have to truck his coal

from Alliston, a distance by highway of approximately six miles. We have considerable sympathy for Mr. Alderson, as there is no doubt whatsoever that he will be badly inconvenienced but, on the other hand, it would not be reasonable to expect the railway to continue in operation for the purpose of handling the few carloads of coal which Mr. Alderson has shipped in.

Statements were also made by Mr. G. H. Shepherd, who operates a business at Creemore, and Mr. W. J. Patton, Reeve of Nottawasaga Township.

Mr. Shepherd's great concern was with respect to the possibility of having to pay slightly higher freight rates if the line were abandoned, this being for the reason that freight coming in or going out would have to be shipped by Allandale instead of through Beeton, the mileage being slightly longer. He was advised as to the procedure to be followed in the event that the freight rates were increased. It should be noted, however, that, even with the abandonment, Creemore will still be served by the railway.

Mr. W. J. Patton was greatly concerned, contending that the line went through a good farming district and, if abandoned, would set the country back to where it was seventy-five years ago.

Summary

As has been stated herein, if the application were granted, the saving to the Canadian National Railways System would amount to $64,164 (See Exhibit 8). Coupled with that, consideration must be given to the deferred maintenance and the large amount it would cost to rehabilitate the line—even to maintain it as Class E track—which, as stated by the witness and set forth herein, would amount to $74,000.

As we have stated in previous cases, the Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines. The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involves when imposed upon the railways. Here we would refer to some previous decisions as follows:

(1) C.N.R. Tweed Subdivision, year 1941, 53 C.R.C., p. 139. Abandonment of operation of the Tweed Subdivision between Yarker and Tweed, Ontario, a distance of 33·94 miles. System saving if line abandoned $22,203. Application granted.

(2) C.N.R. Lakefield Subdivision, Ontario, year 1951, 66 C.R.C., p. 344. Abandonment of operation of 16·24 miles. System saving if line abandoned $31,392. Application granted.

(3) C.N.R. Westport Subdivision, Ontario, year 1952, 69 C.R.C., p. 136. Abandonment of operation of 40·51 miles. System saving if line abandoned $83,035. Application granted.

(4) C.N.R. Algonquin Subdivision, Ontario, Board's file No. 39310·17. Judgment dated January 17, 1955, not yet reported in C.R.C. Application to abandon 39·95 miles of the Algonquin Subdivision. System saving if line abandoned $97,109. Application granted.

(5) C.N.R., portion of the Scotia Subdivision, Nova Scotia. Board's file No. 39310·61. Judgment dated March 8, 1955 not yet reported in C.R.C. Application to abandon 5·24 miles into Pictou Landing. System saving if line abandoned somewhat in excess of $20,000 per annum. Application granted.

(6) C.N.R., portion of the Elgin Subdivision, New Brunswick. Board's file No. 39310·2. Judgment dated March 11, 1955 not yet reported in C.R.C. Application to abandon 13·5 miles between Petitcodiac and Elgin. System saving if line abandoned approximately $30,000 per annum. Application granted.

(7) C.N.R., portion of the Albert Subdivision, New Brunswick. Board's file No. 39310·64. Judgment dated March 25, 1955 not yet reported in C.R.C. Application to abandon 20·4 miles between Hillsboro and Albert. System saving if line abandoned approximately $39,580 per annum. Application granted.

Considering the decisions in the cases mentioned above, the substantial loss to the railways and all that has been presented to the Board, we believe the application for abandonment is justified. The loss to the railways outweighs the loss and inconvenience to the public.

True, there will be some inconvenience to a few individuals but as the railways in their application have submitted a proposed scheme of operation as set forth herein, the public will not be left without other forms of transportation.

The application is approved and Order will go accordingly.

A. SYLVESTRE,
H. B. CHASE.

April 4, 1955.

ORDER No. 85912

TUESDAY, the 5th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

In the matter of the application of the Canadian National Railway Company, under section 168 of the Railway Act and section 2, subsection 3 of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions, for an Order granting it leave to abandon the operation of the following line of railway, namely:

A portion of the Alliston Subdivision, Ontario, between Alliston (mileage 5·1) and Creemore (mileage 23·6), a total distance of 18·5 miles:

File No. 39310·63

Upon hearing the application at a sittings of the Board held in Collingwood, Ontario, on March 16th and 17th, 1955, in the presence of Counsel for the Canadian National Railways and for the Town of Alliston, Township of Tossorontio and two private individuals, and representatives for the Town of Creemore and Nottawasaga Township—

It is ordered that the Canadian National Railway Company be, and it is hereby granted leave to abandon the operation of the portion of the Alliston Subdivision, in the Province of Ontario, between Alliston (mileage 5·1) and Creemore (mileage 23·6), a total distance of 18·5 miles.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORAL JUDGMENT

Delivered at conclusion of hearing at Ottawa, April 28, 1955.

In the matter of the application of Trans-Canada Pipe Lines Limited for a further extension of the period fixed in Order No. 84220, as extended by Order No. 85251, for satisfying the Board that satisfactory arrangements have been completed for financing the construction of its proposed pipe line.

File No. 45371·20·2

KEARNEY, J., Chief Commissioner:

Gentlemen, we are here on the 28th day of April to deal with an extension of an application, the expiry date of which is the day after tomorrow. Normally, we would defer Judgment but the facts and circumstances in this case are so clear that we see no useful purpose in taking the case under advisement and we are prepared now to render judgment orally.

Under our Order No. 84220, dated July 24th, 1954, we granted leave to Trans-Canada Pipe Lines Limited to construct its proposed pipeline subject to the Company satisfying the Board prior to December 31st, 1954, that satisfactory arrangements have been completed for financing the construction of the line and that any licences which may be necessary under the Electricity and Fluids Exportation Act have been or will be granted.

In our judgment at that time we noted that the export permit granted to Trans-Canada by the Petroleum and Natural Gas Conservation Board of Alberta was subject to the condition that Trans-Canada shall satisfy that board prior to December 31st, 1954, *inter alia*, that arrangements have been completed for financing the construction of the project.

By our subsequent Order No. 85251, dated December 27th, 1954, the period fixed in Order No. 84220 for satisfying the Board as aforesaid was extended until April 30th, 1955. The application presently before us is for an extension by this Board to October 31st, 1955, of the period for satisfying us that the arrangements referred to in our Order No. 84220 have been completed.

At the hearing of this application the Company submitted evidence of the efforts and progress made by Trans-Canada in engineering, in contracting for the purchase of gas, in contracting for the sales of the gas, in building up an organization and as to the financing of the project, as well as other pertinent evidence in connection with the building up of markets until gas from Western Canada becomes available to Eastern Canada.

Proof has been made to us that the Petroleum and Natural Gas Conservation Board of Alberta has granted to Trans-Canada an extension to October 31st, 1955, of the period in which the Company shall satisfy the Board that the arrangements for financing the construction of the project have been completed.

Proof likewise has been made before us through the duly authorized representative of the Department of Trade and Commerce, Dr. John Davis, that the Department he represents is in favour of granting the six months' extension asked for in the application and has given the assurance that the same Department is favourably disposed to grant to the Applicant an import permit whereby additional Tennessee gas will be made available to supply the further needs of the Toronto area as well as the needs of the Montreal area as circumstances may require during an interim period until Canadian gas is made available to the above mentioned areas.

Proof has also been made before us that the Applicant, without recourse to public financing, has already provided and expended the sum of $12,000,000 in furthering the project to the state which it has now reached.

In addition we are informed that the Applicant anticipates spending a further sum of $500,000 a month during the next six months or $3,000,000 in all for similar purposes, which, together with the $12,000,000 already referred to, will make a total sum of $15,000,000.

We are satisfied that the Company has shown due diligence and that it has made satisfactory progress to warrant the granting to it of the extension of the time applied for. We are aware that the difficulties in the way of negotiation of firm contracts for supply and sale of gas have been great and we are of the opinion that the inability of the Company to complete satisfactory arrangements for financing the construction of its project has been due to causes outside its control.

Having regard to all the facts and circumstances and, more particularly, the granting of an extension by the Petroleum and Natural Gas Conservation Board of Alberta and the evidence of the authorized representative of the Department of Trade and Commerce, we consider that we should grant the application made by the Company.

An Order will therefore issue extending until October 31st, 1955, the period fixed under our original Order No. 84220 for satisfying the Board as therein referred to.

As a postscript, I might add that there has been but one objection filed in the record: it is signed by Mr. Tim Buck on behalf of the Labour Progressive Party and has been ably presented by Mr. Nurenberg. Now, the objections advanced by Mr. Nurenberg really go to a matter of national policy. We cannot take into account the theories of any political party or group which purports to speak for a national policy until such time, if such time does occur, when that party would be able to speak with the authority of government. But here we have a government which, knowing all the facts, knowing all the arguments that have been brought up by Mr. Nurenberg and knowing all the circumstances as to why public funds were not forthcoming at this time to further this project, has seen fit to support the Applicant's request for a six months' extension.

Under the circumstances, gentlemen, it behooves us to stay within the limits of the case before us and the proof that has been made and, under all the circumstances, we are unanimously of the opinion that the Applicant is entitled to have its application granted.

OTTAWA, April 28, 1955.

JOHN D. KEARNEY,
Chief Commissioner.

Concurred in by Commisisoners FRANK M. MACPHERSON and O. A. MATTHEWS.

ORDER No. 86088

In the matter of the application of Trans-Canada Pipe Lines Limited, dated April 19, 1955, for an Order extending the period for satisfying the Board that satisfactory arrangements have been completed for financing the construction of its proposed company pipe line, for which leave to construct was granted by Order No. 84220, dated July 24, 1954:

File No. 45371·20·2

THURSDAY, the 28th day of April, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at a sitting of the Board held at Ottawa, Ontario, on the 28th day of April, 1955, in the presence of Counsel for Trans-Canada Pipe Lines Limited, the Government of Alberta and the City of Ottawa, and representatives of the Ontario Fuel Board, the Labor Progressive Party, interested parties in Northern Ontario, Winnipeg and Central Gas Company, Canadian Commercial Coal Dock Operators and the Alberta Division, Canadian Petroleum Association—

It is ordered that the period fixed in the said Order No. 84220, dated July 24, 1954, for satisfying the Board that satisfactory arrangements have been completed for financing the construction of the said proposed pipe line and that any licences which may be necessary under the Electricity and Fluid Exportation Act have been or will be granted be, and it is hereby extended until the 31st day of October, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

OTTAWA, June 16, 1953.

CIRCULAR NO. 275.

FILE 24942—REDUCTION OF PASSENGER TRAIN SERVICES

In all cases of reduction in passenger train services and to provide sufficient time for investigation and consideration of submissions of all parties, the Board directs as follows:

That all railway companies subject to the jurisdiction of the Board, in addition to the announcements and the advertising now done by the railway companies, shall post at all ticket offices and stations, twenty days prior to any reduction or other change in passenger train service, a notice reading:

"Change of time will be made For particulars apply to Ticket Agent."

Co-incident with the posting of this notice a Circular giving an outline of the change shall be placed in the hands of agents for the information of the public and a copy shall be forwarded to the Director of Operation of the Board in Ottawa.

Circular No. 139 dated January 13, 1915, and Circular No. 208 dated December 3, 1925, are hereby rescinded.

By Order of the Board,

C. W. RUMP,

Acting Secretary, B.T.C.

OTTAWA, May 4, 1955.

CIRCULAR NO. 276.

PROTECTION INSTALLED IN ACCORDANCE WITH GENERAL ORDER NO. 811

When installation of crossing protection is to be made under an Order of the Board in accordance with General Order No. 811, detailed location plans shall be submitted to the authority having jurisdiction over the highway for its approval as to location of the protection in relation to the highway and railway before such plans are submitted to the Board for approval. The plan shall show the distance in feet from the clearance of the protective device to the nearest edge of the travelled portion of the highway, and to the gauge side of the nearest rail of the track protected by such crossing signal.

By Order of the Board,

E. R. HOPKINS,

Secretary, B.T.C.

ORDER No. 86049

In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717·12·4

TUESDAY, the 26th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that until further order of the Board, member carriers of the Express Traffic Association of Canada, subject to the jurisdiction of the Board, are hereby authorized to receive for shipment in Canada and transport via rail express, subject to the provisions of this Order, samples of flammable liquids offered for shipment by the Amerada Petroleum Corporation, Calgary, Alberta.

That the provisions of section 75·655(*d*) of the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service insofar as they apply to flammable liquids, loaded, transported or stored in cars equipped with lighted heaters or where open flame lights or stoves are used, shall not apply to shipments referred to in paragraph 1 hereof, but the following regulations shall be observed:

(*a*) The sample (or samples) shall be packaged by the shipper in a metal can or cans of not more than one gallon capacity, not more than three such metal cans to be enclosed in a wooden box made to one of the following B.T.C. Specifications: 15A, 15B, 15C, 16A or 19A.

(*b*) The prescribed "red label" shall be attached by the shipper to the outside wooden box which shall also be plainly marked B.T.C. Permit No. A-27. The top of the box shall be marked "This Side Up" and the words "Gasoline" or "Crude Oil" as appropriate, shall be stencilled on the side.

(*c*) All bills-of-lading, shipping orders or shipping papers issued in lieu thereof shall make reference to the B.T.C. Permit Number.

(*d*) Such samples shall be loaded in the express car in a place that will permit their ready removal in case of fire or wreck and, if practicable, near the car door.

(*e*) The express company shall take adequate precautions to keep such samples as far away from any source of ignition as possible.

(*f*) Emptied containers returned for re-use shall bear the "Empty Label" (see section 73·413 of Board's Regulations) to indicate that they have been satisfactorily emptied of liquid and/or gas so that no possible hazard exists in the handling thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86079

In the matter of the application of North Star Oil Limited, of Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48 as approved by the Board:

And in the matter of Order No. 85999, dated April 19, 1955:

File No. 40994·37

THURSDAY, the 28th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas North Star Oil Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of petroleum products, carloads, in tank cars, from Moose Jaw, Saskatchewan, to stations and/or places in the Provinces of Alberta and Saskatchewan as set out in paragraph C(2) of the said Agreed Charge and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered

1. That charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 48 for the transport by the railway companies parties thereto, of petroleum products, carloads in tank cars, shipped by North Star Oil Limited from Moose Jaw, Saskatchewan, to stations and/or places in the Provinces of Alberta and Saskatchewan as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall be deemed to have come into operation on the 19th day of April, 1955.

2. That Order No. 85999, dated April 19, 1955, be, and it is hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86091

In the matter of the application of Westcoast Transmission Company Limited, dated April 28, 1955, for an Order extending until October 31, 1957, the time for construction and completion of its proposed company pipe line for which leave to construct was granted by Order No. 79957, dated October 11, 1952, and granting leave to increase the diameter of the line to 30 inches and to make certain changes in the general location of the said line, including the elimination of the laterals to Kamloops and Vancouver, and the elimination of the pipe line from Brookmere to Osoyoos for which leave to construct was granted by Order No. 81825, dated May 2, 1953; the revised general location being shown on the map attached to the said application:

File No. 45371·3·5

FRIDAY, the 29th day of April, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the submissions of Counsel for the Applicant—

It is ordered

1. That the application will be heard on the 19th day of May, 1955, at the hour of ten o'clock in the forenoon in the court room, Union Station Building, Ottawa, Ontario.

2. That copies of this Order and the said application and map and copies of the notice and route variations attached to this Order be filed forthwith by the Applicant with the Attorneys General and Ministers of provincial highway departments of the Provinces of Alberta and British Columbia, the Minister of Trade and Commerce and the Minister of Mines and Technical Surveys of Canada.

3. That the Applicant send by registered air mail not later than the 2nd day of May, 1955, copies of this Order and the said application, notice and route variations to the following: Public Utilities Commission, Victoria, B.C.; Public Utilities Commission, Edmonton, Alberta; Natural Gas Utilities Board, Edmonton, Alberta; Coal & Petroleum Board, Victoria, B.C.; the Cities of Penticton, Vancouver, New Westminster, Chilliwack, Prince George, Vernon, Trail and Kelowna, the Town of Dawson Creek, the Great Northern Railway Company, the Pacific Great Eastern Railway Company, the Northern Alberta Railways, the Canadian Pacific Railway Company and the Canadian National Railways.

JOHN D. KEARNEY,
Chief Commissioner.

ROUTE VARIATIONS

The variations in the general location and route of the proposed pipe line referred to in the application, a copy of which is enclosed herewith may be described as follows:

1. The branch line from Brookmere to near Osoyoos is eliminated because service to the United States is no longer planned over this route.
2. The line is re-routed between Flood and Rosedale to go north of the Fraser River to avoid the conflict with the Trans Mountain line on the south side of the Fraser, south of Flood.

3. The line is re-routed around Coquihalla Pass through the Boston Bar Pass to employ more favourable construction terrain and to avoid the conflict with the railroad and the Trans Mountain Oil line in the Coquihalla Pass.
4. The line is re-routed between Soda Creek and Savona to go east of Williams Lake to avoid conflict with a future water project in the Williams Lake area, and to go west of Green Lake to more nearly parallel the highway and railroad.
5. The line is re-routed a few miles to improve the crossing of the Fraser River near Prince George.
6. The line is re-routed east of Little Prairie to join the extension from Alberta at a proposed planned site in the vicinity of the Peace River.
7. The line is extended along the Alaska Highway to a point north of Milepost 80 to pick up the gas reserves recently discovered.
8. The laterals to Kamloops and Vancouver are eliminated as these are in reality distribution lines, and as such are not a proper part of the transmission line.

ORDER No. 86100

In the matter of the application of Atlas Steels Limited, of Welland, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 74 as approved by the Board:

File No. 40994·62

MONDAY, the 2nd day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Atlas Steels Limited has made application under subsection 8 of section 32 of The Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its bars, iron or steel, cold rolled or drawn, carloads from Welland, Ontario, to Vancouver, British Columbia, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 74 for the transport, by the railway companies parties thereto, of bars, iron or steel, cold rolled or drawn, carloads, shipped by Atlas Steels Limited from Welland, Ontario, to Vancouver, British Columbia, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86124

In the matter of the application of Lactantia Limited, Victoriaville, Quebec, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its canned goods and preserved products, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed for Lactantia Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86125

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 57:

File No. 40994·44

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submisisons filed—

It is ordered that the said Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 57, on file with the Board under file No. 40994·44, be, and it is hereby, approved; and that the date as from which the said Supplement No. 5 shall be deemed to have become operative is hereby fixed as March 25, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86126

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 77:

File No. 40994·65

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 77, on file with the Board under file No. 40994·65, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as March 30, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86127

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 72:

File No. 40994·56

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 72 on file with the Board under file No. 40994·56, be, and it is hereby approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as March 25, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86131

In the matter of the application of the Canadian Freight Association, dated February 28, 1955, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated February 28, 1955:

And in the matter of the application of the Abitibi Sales Company, Limited for a charge to be fixed the same as the agreed charge as aforesaid from Sturgeon Falls, Ontario:

File No. 40994·72

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered

1. That the agreed charge on file with the Board under file No. 40994·72 and attached to the said application, between the parties described in paragraph A thereof, applying on Boards and Sheets as described in paragraph B thereof from Gatineau, Quebec, to stations and/or places in the Province of British Columbia named in paragraph C(2); and to the unnamed destinations in Condition 7 thereof, be, and it is hereby approved; and the Board hereby fixes the 1st day of March 1955, as the date on which the said agreed charge shall be deemed to have become operative.

2. That, upon the same terms and conditions contained in the agreed charge as approved therein, a charge is hereby fixed, to become operative on and from March 14, 1955, for the transport of the same goods from Sturgeon Falls Ontario, for Abitibi Sales Company, Limited, to the same points of destination to which the said agreed charge is applicable.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86133

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated March 23, 1955:

File No. 40994·73

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated March 23, 1955, between the parties described in paragraph A thereof, applying on Calcium Chloride as described in paragraph B thereof from Amherstburg and Quarries, Ontario, to stations and/or places named in paragraph C(2) and to the unnamed destinations in Condition 6 thereof, on file with the Board under file No. 40994·73, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 24th day of March, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86135

In the matter of the application of Lever Brothers Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 82 as approved by the Board:

File No. 40994·69

WEDNESDAY, the 4th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas Lever Brothers Limited, Toronto, have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of hydrogenated edible oil from Toronto, Ontario, to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 82, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 82 for the transport, by the railway companies parties thereto, of hydrogenated edible oil, as described in paragraph B of the said Agreed Charge, shipped by Lever Brothers Limited from Toronto, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86145

In the matter of the application of the Canadian Freight Association, dated March 29th, 1955, for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 74:

File No. 40994·62

FRIDAY, the 6th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submisisons filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 74 be, and it is hereby approved; and that the date from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as March 30th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86148

In the matter of the application of International Waxes Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 11 as approved by the Board:

File No. 40994·3

MONDAY, the 9th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas International Waxes Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products, carloads, in tank cars only, including paraffine wax, from Clarkson's and Agincourt, Ontario, to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 11, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 11 for the transport, by the railway companies parties thereto, of petroleum products, carloads, in tank cars only, as described in paragraph B of the said Agreed Charge, shipped by International Waxes Limited from Clarkson's and Agincourt, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86149

In the matter of tariff mileage distances of licensed water carriers within the watershed of the Mackenzie River:

File No. 40996·12

MONDAY, the 9th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the Appendix "A" to Order No. 68549, dated the 31st day of January, 1947, as amended by Order No. 70449, dated the 1st day of April, 1948, be, and it is hereby amended by adding to Item No. 11 in the said Appendix "A", as amended, the following:

From	*To*	*Miles*
11. *PEACE RIVER*		
Peace River (Mouth of) (4)	Point Providence, Alta.	36
	Peace Point, Alta.	67
	Boyer Rapids (Foot), Alta.	77
	Boyer Rapids (Head), Alta.	82
	Jackfish Creek, Alta.	88
	Fifth Meridian, Alta.	162
	Red River Post, Alta.	197
	Vermilion Chutes, Alta.	201

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86172

In the matter of the application of General Foods, Limited, Toronto 1, Ontario, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

THURSDAY, the 12th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its cocoa, condensed, coffee, condensed, fruit pectin and pie preparation from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed for General Foods, Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86179

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 15 to Agreed Charge C.T.C. (AC) No. 62:

File No. 40994·47

THURSDAY, the 12th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 15 to Agreed Charge C.T.C. (AC) No. 62, on file with the Board under file No. 40994·47, be, and it is hereby approved; and that the date as from which the said Supplement No. 15 shall be deemed to have become operative is hereby fixed as April 1st, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86016 Apr. 20—Authorizing the C.N.R. to install an automatic interlocker, at the crossing of their railway and the railway of the C.P.R. Co., at Diamond, Manitoba.

86017 Apr. 20—Authorizing the C.N.R. to install an automatic interlocker, at the crossing of their railway and the railway of the C.P.R. Co., at Gladstone, Manitoba.

86018 Apr. 20—In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) 79.

86019 Apr. 20—Authorizing the C. D. Howe Company, Limited, to construct a wooden trestle to support the track serving the elevator addition to the Alberta Pool Terminal Grain Elevator No. 1, Vancouver, British Columbia.

86020 Apr. 20—Authorizing the C.N.R. to operate the bridge at mileage 21·9 Brampton Subdivision, Ontario.

86021 Apr. 20—In the matter of the application of Catelli Food Products, Ltd., of Montreal, Quebec, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86022 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Willingdon, Alberta.

86023 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at White Fox, Saskatchewan.

86024 Apr. 20—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near the C.N.R. tracks at Malton, Ontario.

86025 Apr. 20—Permitting the removal of slow order at C.P.R. crossing at mileage 74·8 LaRiviere Subdivision, Manitoba.

86026 Apr. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Loreburn, Saskatchewan.

86027 Apr. 20—Permitting the removal of slow order at C.P.R. crossing, first public crossing west of the station at Two Creeks, Manitoba.

86028 Apr. 20—Permitting the removal of slow order at C.P.R. crossing east of the station at Cartier, Ontario.

86029 Apr. 20—Permitting the removal of slow order at C.N.R. crossing west of the station at Ashern, Manitoba.

86030 Apr. 21—Requiring the C.N.R. to install certain protection at the crossing of Logan Avenue, Toronto, Ontario.

86031 Apr. 21—Approving resolutions of Quebec North Shore and Labrador Railway Company with respect to the issuing of telephone and telegraph tariffs.

86032 Apr. 21—Requiring the C.N.R. to install certain protection at the crossing of Arnett Road near Albany, Prince Edward Island.

86033 Apr. 21—Authorizing the C.P.R. and the C.N.R. to use the joint tracks in the Town of Whitby, Ontario.

86034 Apr. 21—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone along certain public highways in the Township of Chatham, County of Kent, Ontario.

86035 Apr. 21—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along certain public highways in the Township of Chatham, County of Kent, Ontario.

86036 Apr. 21—Permitting the removal of slow order at C.N.R. crossing of Galoway Road east of Scarboro, Ontario.

86037 Apr. 21—Extending the time within which the C.N.R. is required to install certain protection at the crossing of Westbrooke Road, east of the station at Collins Bay, Ontario.

86038 Apr. 21—Authorizing the C.N.R. to install an automatic interlocker at the crossing of their railway and the railway of the C.P.R. at Dodsland, Saskatchewan.

86039 Apr. 21—Authorizing the British Columbia Department of Public Works to reconstruct the overhead bridge over the C.N.R., near the City of Victoria, British Columbia.

86040 Apr. 21—Approving the operation of C.P.R. trains over the private siding of Imperial Oil Limited, Penticton, British Columbia.

86041 Apr. 21—Permitting the removal of slow order at C.N.R. crossing second crossing west of the station at Chilliwack, British Columbia.

86042 Mar. 22—Permitting the removal of slow order at C.P.R. crossing of Nelson Street, east of the station at Port Arthur, Ontario.

86043 Apr. 22—Approving clearances at the sanding tower at Truro, Nova Scotia.

86044 Apr. 26—Approving revised Appendix to Traffic Agreement between the Bell Telephone Company of Canada and La Corporation de Téléphone de Québec.

86045 Apr. 26—Authorizing the C.N.R. to remove the station agent at Kawene, Ontario.

86048 Apr. 26—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Rockyford, Alberta.

86047 Apr. 26—In the matter of the application of the C.N.R., on behalf of Imperial Oil Limited for approval of location for loading crude oil directly into tank cars from tank trucks at Steelman, Saskatchewan.

86048 Apr. 26—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Creelman, Saskatchewan.

86049 Apr. 26—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

86050 Apr. 26—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of East Ferris.

86051 Apr. 26—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Porcupine Plain, Saskatchewan.

86052 Apr. 26—Permitting the removal of slow order at Michigan Central Railroad crossing of Kerr Side Road, west of West Lorne, Ontario.

86053 Apr. 26—Approving proposed location of storage tanks, etc. of Cities Service Oil Company Limited (Buchanan Petroleum), near the C.N.R. tracks at Pembroke, Ontario.

86054 Apr. 26—Authorizing the Bell Telephone Company to construct its lines of telephone across certain public highways in the County of Kent, Ontario.

86055 Apr. 26—Authorizing the C.P.R. to construct a branch line for Canadian Flint & Spur Company near Bourrett Lake, County of Peterborough, Ontario.

86056 Apr. 26—Authorizing the C.N.R. to reconstruct the bridge at mileage 54·82 Alexandria Subdivision, Quebec.

86057 Apr. 28—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canada Gulf Terminal Railway Company under section 8.

86058 Apr. 28—Authorizing the Alberta Department of Highways to widen the highway where it crosses the Northern Alberta Railways Company at mileage 271·17 Smoky Subdivision, Alberta.

86059 Apr. 28—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

86060 Apr. 28—Authorizing the C.P.R. to connect its tracks with the tracks of the Canadian Collieries (Dunsmuir) Limited, at Bayton, British Columbia.

86061 Apr. 28—Requiring the C.P.R. to install protction at Tecumseh Road, Windsor, Ontario.

86062 Apr. 28—Requiring the C.N.R. to install protection at the crossing of Greenwood Avenue, Toronto, Ontario.

86063 Apr. 28—Relieving the C.P.R. from erecting and maintaining right-of-way fencing between certain mileages on its Carberry Subdivision, Manitoba.

86064 Apr. 28—Authorizing the C.N.R. to operate the bridge over Meade Creek, British Columbia.

86065 Apr. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Brock, Saskatchewan.

86066 Apr. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Lashburn, Saskatchewan.

86067 Apr. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Glentworth, Saskatchewan.

86068 Apr. 28—Relieving the C.P.R. from erecting and maintaining railway fencing at certain mileages on its Minnedosa Subdivision, Manitoba.

86069 Apr. 28—Approving proposed location of facilities for the handling and storage of inflammable liquids of Royalite Products Limited, near C.N.R. tracks at Kamloops, British Columbia.

86070 Apr. 28—Authorizing the C.P.R. to operate the bridge over the Chase River near Nanaimo, British Columbia.

86071 Apr. 28—Approving operation of C.P.R. trains over siding serving McColl-Frontenac Oil Company Limited at mileage 112 Cornwall Subdivision of the C.N.R., Province of Ontario.

86072 Apr. 28—Permitting the removal of slow order at C.P.R. crossing and Darcy Street, Cobourg, Ontario.

86073 Apr. 28—In the matter of the approval of plan submitted to the C.P.R. by the Eastern Beef Packers Limited, showing proposed location of storage tanks at Montreal, Quebec.

86074 Apr. 28—Approving operation of C.P.R. trains over siding serving Sherwin-Williams Company of Canada Limited, LaSalle, Qubec.

86075 Apr. 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Dewberry, Alberta.

86076 Apr. 28—Permitting the removal of slow order at C.P.R. crossing north of station at Aldersyde, Alberta.

86077 Apr. 28—Permitting the removal of slow order at C.P.R. crossing and Government Street west of station at Keewatin, Ontario.

86078 Apr. 28—Approving operation of C.P.R. trains over siding serving the Kingston Suppliers, Vancouver, British Columbia.

86079 Apr. 28—In the matter of the application of North Star Oil Limited of Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48. (petroleum products).

86080 Apr. 28—Authorizing the C.P.R. to operate a bridge on the branch line from Stockett Junction to Wellcox, near Nanaimo, British Columbia.

86081 Apr. 28—In the matter of the application of the C.N.R. on behalf of Northern Petroleum Corporation Limited for a temporary permit to load crude oil into tank cars from tank trucks at Frobisher, Saskatchewan.

86082 Apr. 29—Approving proposed location of storage tanks, etc. of Pemtax Oil Sales Limited near C.N.R. tracks at Wildwood, Alberta.

86083 Apr. 29—Permitting the removal of slow order at C.N.R. crossing west of station at Zealandia, Saskatchewan.

86084 Apr. 29—In the matter of the approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Birch Hills, Saskatchewan.

86085 Apr. 29—In the matter of the approval of plan submitted to the C.N.R. by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc. at Chilliwack, British Columbia.

86086 Apr. 29—In the matter of the application of C.P.R. for authority to make changes to the signal protection at mileage 16·4 Indian Head Subdivision, Saskatchewan.

86087 Apr. 29—In the matter of the application of the Irish Shipping Limited for an Order declaring that the C.P.R. the C.N.R. and other Railways have failed to do what they were required to do by Order No. 84457, dated August 31, 1954.

86088 Apr. 28—In the matter of the application of the Trans-Canada Pipe Lines Limited for an Order extending the period for satisfying the Board that satisfactory arrangements have been completed for financing the construction of its proposed company pipe line.

86089 Apr. 29—Authorizing the C.P.R. to make changes to the automatic signals at Ashcroft, British Columbia.

86090 Apr. 29—Authorizing the C.P.R. to make changes to the automatic signals at Spuzzum, British Columbia.

86091 Apr. 29—Setting down the application of Westcoat Transmission Company Limited for an Order extending the time for completion of its proposed pipe line, etc. to be heard at Ottawa, on May 19th, 1955, at 10:00 o'clock in the forenoon.

86092 Apr. 29—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at St. Eugene, Quebec.

86093 Apr. 29—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Bagot, Quebec.

86094 Apr. 29—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Falconbridge Nickel Mines Limited.

86095 Apr. 29—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Apsley Telephone Company Limited.

86096 Apr. 29—Permitting the removal of slow order at C.N.R. crossing of Ste. Helene Street, Montreal South, Quebec.

86097 May 2—In the matter of the approval of plan submitted to the C.P.R. by St. Lawrence Propane Limited, showing proposed site of unloading liquefied petroleum gas from tank cars into tank trucks at Cornwall, Ontario.

86098 May 2—Authorizing the C.P.R. to reconstruct the bridge at mileage 60·9 Montmagny Subdivision, Quebec.

86099 May 2—Authorizing the Municipality of the Parish of Notre Dame des Neiges des Trois-Pistoles, Quebec, to construct a public crossing across the C.N.R. at mileage 55·36 Rimouski Subdivision, Quebec.

86100 May 2—In the matter of the application of Atlas Steels Limited, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 74.

86101 May 2—Approving proposed location of storage tanks, etc. of Minnesota Mining and Manufacturing of Canada Limited, near C.N.R. tracks at London, Ontario.

86102 May 2—Permitting the removal of slow order at C.N.R. crossing east of station at Proulxville, Quebec.

86103 May 3—Approving proposed location of storage tanks, etc. of McMaster Fuels Limited for the handling of liquefied petroleum gas near the tracks of the Algoma Central and Hudson Bay Railway Company at Sault Ste. Marie, Ontario.

86104 May 3—Authorizing the Ontario Department of Highways to construct the highway No. 401 across the C.N.R. at mileage 2·2 Maynooth Subdivision, Ontario.

86105 May 3—Permitting the removal of slow order at C.P.R. crossing east of station at Canmore, Alberta.

86106 May 3—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.N.R. at mileage 79·3 Oyen Subdivision, Alberta.

86107 May 3—In the matter of the application of the C.P.R. on behalf of Gibson Petroleum Company Limited for temporary permit to load crude oil into tank cars from tank trucks at Veteran, Alberta.

86108 May 3—In the matter of the application of the C.P.R. on behalf of Gibson Petroleum Company Limited for temporary permit to load crude oil into tank cars from tank trucks at Throne, Alberta.

86109 May 3—Authorizing the C.N.R. to replace the existing steel beam span at mileage 41·2 Grimsby Subdivision, Ontario.

86110 May 3—Permitting the removal of slow order at C.N.R. crossing and King Street, Weston, Ontario.

86111 May 3—In the matter of consideration of improved protection at crossing of Kerr Street and the C.N.R., Oakville, Ontario.

86112 May 3—Authorizing Fry-Cadbury Limited to construct an overhead passageway across the C.P.R., Montreal, Quebec.

86113 May 3—In the matter of the reconstruction of the bridge over the Rouge River, Quebec, Sorel Subdivision.

86114 May 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86115 May 3—Permitting the removal of slow order at C.P.R. crossing at mileage 54·76 Crowsnest Subdivision, Alberta.

86116 May 3—Extending the time within which the C.N.R. is required to install certain protection at the crossing of their railway and Cote Noire Road, Quebec.

86117 May 4—Authorizing the New Brunswick Department of Public Works to improve the approach grades at the crossing of the highway and the C.N.R. at mileage 71·25 Sussex Subdivision, New Brunswick.

86118 May 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Maidstone, Saskatchewan.

86119 May 4—Authorizing the British Columbia Department of Highways to lay a storm sewer under the C.P.R. at Penticton, British Columbia.

86120 May 4—In the matter of the application of the Municipality of the Village of Tring Jonction, Quebec, for an Order authorizing the construction of the highway across the Quebec Central Railway Company.

86121 May 4—Approving proposed location of storage tanks, etc. of Trinidad Leaseholds (Canada) Limited near the C.P.R. tracks at Shelburne, Ontario.

86122 May 4—Authorizing the Rural Municipality of Elton, Manitoba, to construct a public road across the C.P.R. at mileage 121·8 Carberry Subdivision, Manitoba.

86123 May 4—Authorizing the Municipal District of Beaver No. 73 in the Province of Alberta, to construct Main Street across the C.N.R. in the Village of Bruce, Alberta.

86124 May 4—In the matter of the application of Lactantia Limited, Victoriaville, Quebec, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86125 May 4—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 57.

86126 May 4—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 77.

86127 May 4—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 72.

86128 May 4—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLV OTTAWA, JUNE 15, 1955 No. 6

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ORDER No. 86162

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated April 4, 1955:

File No. 40994·74

THURSDAY, the 12th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated April 4, 1955, between the parties named in paragraph A thereof, applying on Caustic Soda as described in paragraph B thereof, from Sarnia, Ontario, to Vancouver, British Columbia, and to the unnamed destinations in Condition 6 thereof, on file with the Board under file No. 40994·74, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 5th day of April, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

55909—1

ORDER No. 86163

In the matter of the application of the Canadian Freight Association, dated March 22nd, 1955, for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 73:

File No. 40994·58

THURSDAY, the 12th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 73, on file with the Board under file No. 40994·58, be, and it is hereby approved; and that the date from which the said Supplement shall be deemed to have become operative is hereby fixed as the 23rd day of March, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86165

In the matter of the application of the Canadian Freight Association, under section 353 of the Railway Act, for approval of limitation of liability involved in the released valuation on Tungsten Ore and Tungsten Ore Concentrates from New Westminster, Prince Rupert, Salmo, Skeena Crossing, Vancouver, Victoria, British Columbia, to points in the United States; and from points in the United States to Welland, Ontario, as on file with the Board under file No. 40615:

THURSDAY, the 12th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that approval be, and it is hereby given to the limitation of liability involved in the released valuation on Tungsten Ore and Tungsten Ore Concentrates, carloads, subject to value declared in writing by the shipper, or agreed upon in writing as the released value of the property, not exceeding $25.00 per 100 pounds, as set out in detail in the said application.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86196

In the matter of the application of Canada Packers Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 82 as approved by the Board:

File No. 40994·69

MONDAY, the 16th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Canada Packers Limited, Toronto, have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of hydrogenated edible oil, carloads, in tank cars only from Toronto, Ontario, to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 82, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 82 for the transport, by the railway companies parties thereto, of hydrogenated edible oil, carloads, in tank cars only, as described in paragraph B of the said Agreed Charge, shipped by Canada Packers Limited from Toronto, Ontario, to the stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86217

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 63:

File No. 40994·50

TUESDAY, the 17th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 63 on file with the Board under file No. 40994·50, be, and it is hereby approved; and that the date as from which the said Supplement No. 3 shall be deemed to have become operative is hereby fixed as April 14th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86222

In the matter of the application of Anchor Petroleum Company, San Francisco, California, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 78 as approved by the Board:

File No. 40994·66

WEDNESDAY, the 18th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Anchor Petroleum Company has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from Shellburn and Stanovan, British Columbia, to stations and/or places as set out in paragraph C(2) in Agreed Charge C.T.C. (AC) No. 78, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 78 for the transport by the railway companies parties thereto, of petroleum products in tank cars as described in paragraph B of the said tariff, shipped by Anchor Petroleum Company from Shellburn and Stanovan, British Columbia, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

FRANK M. MacPHERSON,
Commissioner.

ORDER No. 86223

In the matter of the application of Alexander Murray & Company, Montreal, Quebec, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 85 as approved by the Board:

File No. 40994·72

WEDNESDAY, the 18th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Alexander Murray & Company has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its boards or sheets from Gatineau, Quebec, to stations and/or places as set out in paragraph C(2) in Agreed Charge C.T.C. (AC) No. 85, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 85 for the transport by the railway companies parties thereto, of boards or sheets, as described in paragraph B of the said tariff, shipped by Alexander Murray & Company from Gatineau, Quebec, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

FRANK M. MacPHERSON,
Commissioner.

ORDER No. 86231

In the matter of the application of the Cayuga Steamship Company Limited, hereinafter called the "Applicant Company", for a licence under section 10 of the Transport Act:

File No. 42076·52

THURSDAY, the 19th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 307 be issued to the Applicant Company for the period of one year commencing the 15th day of January, 1955, licensing the following ship, namely:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Cayuga	122219	2196

to transport passengers and/or goods by water between the following ports or places:

Toronto,
Niagara-on-the-Lake,
Queenston,

all in the Province of Ontario.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86269

In the matter of the application of Canada Packers Limited, Toronto, Province of Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69 as approved by the Board:

File No. 40994·63

TUESDAY, the 24th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Canada Packers Limited, has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its butter, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 69, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 69 for the transport, by the railway companies parties thereto, of butter, (carloads), as described in paragraph B of the said Agreed Charge, shipped by Canada Packers Limited, from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86272

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 53:

File No. 40994·39

THURSDAY, the 26th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 53 on file with the Board under file No. 40994·39, be, and it is hereby, approved; and that the date as from which the said Supplement No. 2 shall be deemed to have become operative is hereby fixed as April 21, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86273

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 57:

File No. 40994·44

THURSDAY, the 26th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 57, on file with the Board under file No. 40994·44, be, and it is hereby, approved; and that the date as from which the said Supplement No. 6 shall be deemed to have become operative is hereby fixed as May 16, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86279

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated April 12, 1955:

File No. 40994·75

THURSDAY, the 26th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated April 12, 1955, between the parties described in paragraph A thereof, applying on Pig Iron, carloads, from Sault Ste. Marie, Ontario, to stations and/or places named in paragraph C(2) and to the unnamed destinations in Condition 6 thereof, on file with the Board under file No. 40994·75, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 13th day of April, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86297

In the matter of the application of Modern Dairies Limited, Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69 as approved by the Board:

File No. 40994·63

FRIDAY, the 27th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Modern Dairies Limited, has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its butter, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 69, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 69 for the transport, by the railway companies parties thereto, of butter, (carloads), as described in paragraph B of the said Agreed Charge, shipped by Modern Dairies Limited, from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT APRIL, 1955

Railway Accidents	171	Killed	8	Injured	194
Level Crossing Accidents ..	27	Killed	10	Injured	43
Total.....	198		18		237

	Killed	*Injured*
Passengers	—	45
Employees	2	141
Others	16	51
Total.....	18	237

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEWFOUNDLAND
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Nfld. 16-667.
		QUEBEC
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 76-777.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-65-824.
—	10	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 36-7896.
		ONTARIO
—	1	Cyclist drove onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 707-735.
—	1	Auto truck ran into side of train. Licence: Ont. 59-016-A.
—	1	Automobile ran into side of train. Licence: Ont. 5-773.
—	2	Automobile ran into side of track motor car. Licence: Ont. A-47-918.
4	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 463-831.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-72573.
1	—	Child walked onto crossing in front of approaching train and was struck.
—	1	Child walked onto crossing in front of approaching train and was struck.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 89-76-B.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 14-296-B.
		MANITOBA
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 4-D-331.
—	1	Automobile ran into side of train. Licence: Man. 8-X-969.
		SASKATCHEWAN
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-33237.
—	3	Automobile ran into side of train. Licence: Sask. 19545.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. D-1-816.
		ALBERTA
—	1	Automobile ran into side of train. Licence not given.
—	3	Auto truck ran into side of track motor car. Licence not given.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. ZY-110.
1	—	Automobile ran into side of train. Licence: Alta. LZ-807.
		BRITISH COLUMBIA
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 203-992.

Of the 27 accidents at highway crossings, 21 occurred at unprotected crossings, and 6 at protected crossings. 12 occurred after sunrise and 15 after sunset.

OTTAWA, Ont., May 31st, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86129 May 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Robsart, Saskatchewan.

86130 May 4—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Inwood, Manitoba.

86131 May 4—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated February 28, 1955, and in the matter of the application of the Abitibi Sales Company, Limited for a charge to be fixed the same as the agreed charge as aforesaid from Sturgeon Falls, Ontario.

86132 May 4—Authorizing the C.P.R. to construct a branch line of railway on its Westminster Branch, Vancouver & Lulu Island Railway, in the City of Vancouver, British Columbia.

86133 May 4—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated March 23, 1955.

86134 May 4—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Medstead, Saskatchewan.

86135 May 4—In the matter of the application of Lever Brothers Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 82.

86136 May 5—Dismissing the C.N.R.'s application for authority to discontinue as an agency their station at Runnymede, Saskatchewan.

86137 May 5—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 11 at mileage 49·46 Caraquet Subdivision, N.B.

86138 May 5—Approving the operation of C.P.R. trains over the private siding serving Evans Products Limited, Vancouver, British Columbia.

86139 May 5—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86140 May 5—In the matter of the application of Northern Transportation Company Limited, for a licence under section 10 of the Transport Act.

86141 May 5—Authorizing the C.N.R. to make changes to the interlocker at Coteau, Quebec.

86142 May 6—Approving proposed location of storage tank, etc. of C.N.R., near their tracks at Fairview, Nova Scotia.

86143 May 6—Authorizing the C.P.R. to construct a siding across the public road in the Township of McDougall, Ontario.

86144 May 6—Authorizing the C.N.R. to use the bridge over the Saugeen River, Ontario.

86145 May 6—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 74.

86146 May 6—Authorizing the C.N.R. to use the bridge over Consecon Lake, Ont.

86147 May 6—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 8.

86148 May 9—In the matter of the application of International Waxes Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 11.

86149 May 9—In the matter of tariff mileage distances of licensed water carriers within the watershed of the Mackenzie River.

86150 May 9—Authorizing the C.N.R. to reconstruct the bridge over the Endako River, British Columbia, at mileage 15·2 Telkwa Subdivision.

86151 May 9—Authorizing the C.N.R. to reconstruct the timber bridge over the Endako River, British Columbia, at mileage 13·1 Telkwa Subdivision.

86152 May 9—Authorizing the C.N.R. to reconstruct the timber bridge over the Creek at mileage 70·4 Skeena Subdivision, British Columbia.

86153 May 10—Approving revised plan upon application of the Ontario Northland Railway, showing the changes to the automatic protection at crossing of Highway No. 66, mileage 10·8 Kirkland Lake Subdivision, Ontario.

86154 May 10—Authoriizng the Village of Woodbridge, to construct its sewer line under the tracks of the C.P.R.

86155 May 10—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86156 May 10—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under section 8.

86157 May 11—In the matter of approval of plan submitted to the Northern Alberta Railways Company, by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Manola, Alberta.

86158 May 11—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the tracks of the Northern Alberta Railways Company at Hythe, Alberta.

86159 May 11—In the matter of changes proposed to be made in the protection at the C.N.R. crossing of Depot Street in the Town of Grimsby, Ontario.

86160 May 11—Permitting the removal of slow order at the Northern Alberta Railways crossing at Wanham, Alberta.

86161 May 11—Authorizing the City of Trois Rivieres, Quebec, to construct and maintain Pere Marquette Street across the C.P.R.

86162 May 12—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated April 4, 1955.

86163 May 12—In the matter of the application of the Canadian Freight Association, for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 73.

86164 May 12—Authorizing the Pacific Great Eastern Railway Company to construct a railway bridge over the C.N.R. at mileage 143·834 McBride Subdivision, British Columbia.

86165 May 12—In the matter of the application of the Canadian Freight Association for approval of limitation of liability involved in the released valuation on Tungsten Ore and Tungsten Ore Concentrates from New Westminster and other points in British Columbia, to points in the United States; and from points in the United States to Welland, Ontario.

86166 May 12—Permitting the removal of slow order at C.N.R. crossing of County Highway No. 48, north of the station at Pefferlaw, Ontario.

86167 May 12—Permitting the removal of slow order at C.N.R. crossing of Erie Street, Stratford, Ontario.

86168 May 12—Permitting the removal of slow order at C.N.R. crossing, first crossing east of the station at Red Rock, Ontario.

86169 May 12—Permitting the removal of slow order at C.N.R. crossing, first crossing east of the station at Crooked River, Saskatchewan.

86170 May 12—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Camlachie, Ontario.

86171 May 12—Permitting the removal of slow order at C.P.R. crossing of Main Street, near station at Moosomin, Saskatchewan.

86172 May 12—In the matter of the application of General Foods, Limited, Toronto 1, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86173 May 12—Authorizing the C.N.R. to reconstruct the bridge over Nicholson Creek, British Columbia, at mileage 9·3 Skeena Subdivision.

86174 May 12—Authorizing the Falconbridge Nickel Mines Limited, to work the mines and minerals under the right-of-way and tracks of the C.P.R., between mileages 83 and 84 Cartier Subdivision, Ontario.

86175 May 12—Authorizing The Consumers' Gas Company of Toronto to construct a gas main under the tracks of The Toronto Harbour Commissioners, at Fleet Street West, Toronto, Ontario.

86176 May 12—Authorizing the Quebec Department of Roads to widen the Highway No. 34 where it crosses the Quebec Central Railway Company, in the Village of St. Gerard, Quebec.

86177 May 12—Authorizing the C.N.R. to reconstruct the bridge over the west branch of the Severn River, Ontario.

86178 May 12—Authorizing The Toronto Harbour Commissioners to relocate a portion of their track on Queens Quay East, Toronto, Ontario.

86179 May 12—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 15 to Agreed Charge C.T.C. (AC) No. 62.

86180 May 12—Approving revised plan showing certain protection at the crossing of the Ontario Northland Railway and Highway No. 66 at mileage 6·25 Kirkland Lake Subdivision, Ontario.

86181 May 12—Approving proposed location of storage tanks, etc. of Canadian Petrofina Limited, near the tracks of the Quebec Central Railway Company at Thetford Mines, Quebec.

86182 May 12—Permitting the removal of slow order at Nipissing Central Railway crossing at Provincial Highway No. 55, west of the station at Rouyn, Quebec.

86183 May 12—Approving proposed location of storage tank, etc. of Goodyear Tire and Rubber Company of Canada Limited, near the tracks of the C.N.R. at St. Malo Yard, Quebec.

86184 May 13—Authorizing the C.N.R. to open their new Canso Causeway Line from Linwood Junction to Tupper, Nova Scotia.

86185 May 13—Requiring the C.N.R. to install certain protection at crossing of North Augusta Road, mileage 124·63 Cornwall Subdivision, Ontario.

86186 May 13—Approving plan showing protection as installed at crossing of C.N.R. and 115th Avenue, Edmonton, Alberta, in lieu of Plan No. 470/59A5.

86187 May 13—Relieving the C.P.R. from erecting certain fencing on its Portal Subdivision, Saskatchewan.

86188 May 13—Exempting the C.P.R. from erecting railway fencing at certain points on its Tyvan Subdivision, Saskatchewan.

86189 May 13—Requiring the C.N.R. to install protection at crossing of Dell Street, Sudbury, Ontario.

86190 May 13—Authorizing the Municipal Corporation of the Parish of Ste. Anne de la Pocatiers to widen the highway where it crosses the C.N.R. at mileage 41·29 Montmagny Subdivision, Quebec.

86191 May 13—Requiring the C.P.R. to install certain protection at the crossing of the highway, west of the station at St. Vincent de Paul, Quebec.

86192 May 13—Authorizing the C.N.R. to replace the interlocking at the diamond and junction of their railway and the Ontario Northland Railway at North Bay, Ontario.

86193 May 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under section 8.

86194 May 16—Permitting the removal of slow order at C.P.R. crossing and Union Street in the City of West Saint John, New Brunswick.

86195 May 16—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited showing proposed location of storage tanks, etc. at Camrose, Alberta.

86196 May 16—In the matter of the application of Canada Packers Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 82. (edible oil, carloads).

86197 May 16—Approving Agreement between The Bell Telephone Company of Canada and The North American Telegraph Company.

86198 May 16—Permitting the removal of slow order at C.N.R. crossing east of station, at Ituna, Saskatchewan.

86199 May 17—In the matter of the application of the Quebec North Shore and Labrador Railway Company for approval of its standard mileage passenger fares.

86200 May 17—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Waskatenau, Alberta.

86201 May 17—Approving operation of C.P.R. trains over private siding serving Building Products & Coal Company Limited in the Rural Municipality of East Kildonan, Manitoba.

86202 May 17—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Rabbit Lake, Saskatchewan.

86203 May 17—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86204 May 17—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the Dominion Atlantic Railway Company under section 8.

86205 May 17—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

86206 May 17—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Hafford, Saskatchewan.

86207 May 17—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Val Marie, Saskatchewan.

86208 May 17—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Thorsby, Alberta.

86209 May 17—In the matter of approval of plan submitted to the C.N.R. by Canadian Oil Companies Limited showing proposed location of storage tanks, etc. at Coteau, Quebec.

86210 May 17—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Elk Point, Alberta.

86211 May 19—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at Jellicoe, Ontario.

86212 May 17—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.P.R. tracks at Gainsborough, Saskatchewan.

86213 May 17—Approving C.N.R. plans showing proposed extension of a steel viaduct at the rear of the Union Station at Winnipeg, Manitoba.

86214 May 17—In the matter of application of The Bell Telephone Company of Canada for leave to construct its line of telephone along certain public highways in the County of Kent, Ontario.

86215 May 17—Authorizing the Department of National Defence to construct the highway across C.N.R. tracks at mileage 16·49 Dartmouth Subdivision, Nova Scotia.

86216 May 17—Permitting the removal of slow order at C.N.R. crossing and Provincial Highway No. 16 south of the station at East Edmonton, Alberta.

86217 May 17—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 63.

86218 May 17—Authorizing the C.P.R. to extend the approach circuits governing the operation of the automatic signals at the crossing of its railway and Highway No. 11A near Labuma, Alberta.

86219 May 17—In the matter of the application of The Bell Telephone Company of Canada for approval of Agreement between the Applicant Company and the Minister of Transport for Canada.

86220 May 17—Authorizing the C.P.R. to operate bridge No. 121·1 Laggan Subdivision over Bath Creek in the Province of Alberta.

86221 May 17—Authorizing the Ontario Department of Highways to construct a temporary crossing over the C.P.R. at mileage 35·0 Webbwood Subdivision, Township of Nairn, Ontario.

86222 May 18—In the matter of the application of Anchor Petroleum Company, San Francisco, California, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 78.

86223 May 18—In the matter of the application of Alexander Murray & Company, Montreal, Quebec, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 85.

86224 May 19—Authorizing the C.N.R. to install and maintain series relays in the timing sections of the automatic protection at the crossing of their railway and Route No. 49 in Plessisville, Quebec.

86225 May 19—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Handel, Saskatchewan.

86226 May 19—In the matter of the application of the Toronto, Hamilton & Buffalo Railway Company for an Order amending Order No. 86109 which authorized the C.N.R. to replace the steel beam span at mileage 41·2 Grimsby Subdivision, Ontario.

86227 May 19—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Denzil, Saskatchewan.

86228 May 19—In the matter of approval of plan submitted to the C.N.R. by Royalite Oil Company Limited showing proposed location of storage tanks, etc. at Prince George, British Columbia.

86229 May 19—Authorizing the C.P.R. to make changes to block signal system on the eastward track on its Ignace Subdivision between mileages 89·1 and 78·8, Province of Ontario.

86230 May 19—Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 20 at mileage 35·98 Meskanaw Subdivision, Saskatchewan.

86231 May 19—In the matter of the application of the Cayuga Steamship Company Limited for a licence under section 10 of the Transport Act.

86232 May 19—Approving abandonment of operation of the Sydney and Louisburg Railway Company's branch line from Caledonia Junction to Dominion No. 6, Donkin, Nova Scotia.

86233 May 19—Authorizing the C.P.R. to construct a siding across Ste. Therese and St. Joseph Streets, in the City of Sherbrooke, Quebec.

86234 May 19—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Corporation de Telephone de Quebec.

86235 May 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Leeds and Grenville Independent Telephone Company Limited.

86236 May 19—Authorizing the C.N.R. to shorten the northward approach circuit for the protection at the crossing of their railway and Lansing Road, Oriole, Ontario.

86237 May 19—Approving plan showing relocation of the flashing light signal north of the crossing of the C.N.R. and Vidal Street, Sarnia, Ontario.

86238 May 19—Authorizing the C.P.R. to extend the northward control circuit of the automatic protection at the crossing of the highway and its railway at mileage 34·53 Leduc Subdivision, Alberta.

86239 May 19—Authorizing the C.P.R. to make changes to the automatic signals at Spence's Bridge and Kanaka, British Columbia.

86240 May 19—Permitting the removal of slow order at C.N.R. crossing and Rose de Lima Street, Montreal, Quebec.

86241 May 19—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways at Medonte, Ontario.

86242 May 19—Relieving the C.P.R. from erecting and maintaining railway fencing along its right-of-way on the west side between mileage 0·3 and mileage 2·1 Snowflake Subdivision, Manitoba.

86243 May 19—Relieving the C.P.R. from erecting and maintaining fencing between certain mileages on its Boissevain Subdivision, Manitoba.

86244 May 19—Relieving the C.P.R. from erecting and maintaining fencing between certain mileages on its Napinka Subdivision, Manitoba.

86245 May 19—Relieving the C.P.R. from erecting and maintaining railway fencing on the north side of its right-of-way between mileages 74·16 and 75·81 Bredenbury Subdivision, Manitoba.

86246 May 19—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86247 May 19—Authorizing the C.P.R. to construct two sidings across Arthur Street at Island No. 1 in the City of Fort William, Ontario, to serve the Riverlake Oils Division of Husky Oil and Refining, Limited, Fort William, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of Irish Shipping Limited re issuance of through Bills of Lading by Railway Companies for export traffic:

File 3678-34-1

Heard at Ottawa, January 27th, 1955.

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

H. E. B. COYNE, Q.C., for Irish Shipping Limited.

JEAN BRISSET, Q.C., for Saguenay Terminals Limited.

W. G. BOYD, for The Railway Association of Canada and Canadian National Railways.

K. D. M. SPENCE, Q.C., and J. E. CASEY, for the Railway Association of Canada and Canadian Pacific Railway Company.

HUGH E. O'DONNELL, Q.C., for Canadian-United Kingdom Eastbound Freight Conference.

JUDGMENT

WARDROPE, Asst. Chief Commissioner:

This application of Irish Shipping Limited, dated November 18th, 1954, is in continuation of a previous case brought by the same applicant which was decided by our Judgment of August 31, 1954 (71 C.R.T.C. 121).

As in the former case, Saguenay Terminals Limited intervened in support of the applicant. Both steamship companies will be collectively referred to herein as the "Applicants".

While our previous Judgment speaks for itself, it will be helpful to an understanding of the instant matter if I briefly review what was there involved and decided.

The issues therein were confined to a requirement of the railways that through bills of lading would not be issued in connection with steamship lines who were not members of a Conference, or in the absence of a Conference, who did not charge rates uniformly with other lines.

Preceding the refusal to grant through bill of lading privileges there had been in effect an arrangement whereby the applicants had enjoyed such through bill of lading privileges but had been deprived thereof on the grounds above stated, and the railways had refused to reinstate the arrangement.

Irish Shipping Limited stated that it had been refused membership in the Canadian-United Kingdom Conference, and Saguenay Terminals Limited stated it did not desire to become a member thereof.

It was our finding that the railways' action in refusing to extend through bill of lading privileges to all steamship lines "willing and able to execute the same or similar arrangements with the railways", constituted undue prejudice and disadvantage to the ocean lines who had been denied such privileges. Our Order No. 84457 of August 31st, 1954, directed that the prejudice and disadvantage be removed.

Inasmuch as the issuance of through bills of lading by the railways required such railways to act as agents for steamship lines, we recognized that the railways would require some form of agency agreement so to act. Our Judgment was therefore qualified as follows:

> "I am impelled to say, however, that there can be no such finding against the railway if any ocean carrier does not elect to enter into an agreement for issuance of the through bill of lading. Under such conditions the railways would be powerless to issue such documents."

The applicants now come seeking an Order declaring that the railways have failed to do what they were required to do by our Order.

A number of exhibits were filed by the applicants indicating that while the requirement of membership in a Conference was no longer imposed, the railways had proffered a new form of agreement for signature by the applicants containing a clause reading as follows:

> "6. The steamships agree to charge for their service under the said contract of carriage the rate or rates in effect at time of shipment, for the particular commodity established by all other carriers in the same trade which have executed this standard Agreement." (Exhibit 4.)

The applicants state they have refused to sign the new agreement embodying this Clause on the grounds that it would be in violation of the Combines Investigation Act, and reflects an unjustified interference in the management of their affairs. In consequence, the applicants have been refused the privileges of participating in the movement of traffic on through bills of lading issued by the railways, which it is alleged continue to be issued by the railways in connection with steamship lines other than the applicants.

While I have summarized, very briefly, what I think are the main points involved, the transcript of evidence comprised 131 pages, and 20 exhibits were filed. The bulk of the transcript is taken up with argument by Counsel.

No witnesses were called by the railways, but the applicants called as witness, Mr. K. M. Fetterly, Foreign Freight Traffic Manager, Canadian Pacific Railway Company and questioned him upon the reasons for the insertion of the new clause in the Agreement and other matters. I quote the pertinent parts of Mr. Fetterly's evidence:

"Q. You are therefore aware of the text of Clause 6, I am sure?—A. Yes, the import of it anyway, yes.

"Q. I take it that this clause did not exist in the previous agreement that was in force?—A. No, it didn't. (Trans. p. 141).

. . . .

"Q. Will you therefore tell us what was the reason for the insertion of that section and the purport of it? What were you trying to attain?—A. We were saying to the Steamship Lines where there has been cutthroat competition and where the railways have established through rates with the regular lines, to get your house in order, ours is in order.

"Q. You mean to say, Mr. Fetterly, that the agreement would only apply when through rates would be put into effect?—A. No. I mean nothing of the sort, apply on rates whether they are through or whether they are local ocean rates.

"Q. And what do you mean when you say that you were telling the steamship lines to put their house in order, what are you trying to convey to us?—A. To convey to those lines who are not quoting the same rate as the other lines trading to the same areas they had better get together and do so. We don't want to be obligated on a dozen different rates by different steamship lines.

"Q. What concern is it of yours that the rates of the steamship lines may vary?—A. Well, as I pointed out, we already have some through rates, it would make a great deal of difference, it would put us in the position at times of having established a through rate that we would be underquoting our own through rate. (Trans. ps. 142-4).

. . . .

"Q. Now, Mr. Fetterly, do you see any difference in this position taken by the Railway Association prior to August 1954 that they would refuse to grant through bill of lading privileges to lines who were not members of Conferences or were not charging agreed rates and the position under Section 6 of your new agreement where you say, if I may paraphrase, 'We will not give you through bill of lading privileges unless you charge agreed rates'.—A. Yes, there is a considerable difference.

"Q. Will you explain what the difference is?—A. Certainly. In the first instance you had the steamship line had to belong to a Conference or had to be working under agreed rates with other lines where there was no Conference. Now, under the present agreement that we have offered the steamship lines they do not have to be members of any Conference, that is the difference.

"Q. But what about rates?—A. They must get together and charge the same rates. (Trans. ps. 149-50).

"Q. So prior to August 31st, 1954, you were saying to Saguenay Terminals Limited 'We are not granting you through bill of lading privileges because you have not agreed on rates with the other lines'?—A. I think that is the meaning of it, yes. That is why it was in there, yes.

"Q. And today you are telling them 'We will grant you through bill of lading privileges provided you agree on rates,' is that what you are telling them?—A. Provided they agree on rates we will grant through bill of lading privileges, yes. (Trans. p. 152).

. . . .

"Q. Why do you . . . want to cut off all competition in ocean transportation rates?—A. Oh, there is plenty of competition. We don't want tramps coming in quoting rates one day and gone tomorrow and then being forced to issue through bills of lading on any tramp ship that comes along.

"Q. Does that cut your revenue as railways, does not affect your railways?—A. Sure, it affects our through rates.

"Q. But when you have no through rates how are the railways affected?—A. When we have no—well, we have, that is what I am pointing out. We have.

"Q. You mean to say you have through rates on all commodities moving on through bills of lading?—A. Not on all commodities, no. (Trans. ps. 153-4).

. . . .

"Q. Would you be prepared to accept this proposition, Mr. Fetterly, that if Saguenay Terminals Limited, for instance, were to sign this agreement and after signing it were to say our rate, for instance, on asbestos is so much, that would be the governing rate?—A. No.

"Q. How would they come together to fix a rate?—A. They would get—the same as all rates are fixed, in collaboration with other lines in the trade. Surely that does not have to be pointed out. The railways have to get together and fix rates. The steamship lines get together and fix rates. Surely that is not asking too much.

"Q. Well let me go on and read further:

'By all other carriers in the same trade area which have executed this standard agreement'.

Therefore there is some restriction there, you will agree with me, that the rates are those fixed by the lines that have signed the agreement and not the lines that are in that trade, do you agree?—A. Well that is rather difficult to answer because where the agreement is offered to all lines it is on the understanding that all steamship lines will get together and quote the same rates.

"Q. How could the shipper ship otherwise than on vessels of the lines that have signed this agreement and at the rate they have fixed, if he wants to get a through bill of lading?—A. I say that the railways are not in control of the ocean rates nor are they, not at all, and they are not trying to get control of any ocean rates. As long as the lines serving that trade, wherever it may be, the Far East, U.K. or the Continent, anywhere else, when the rate is suitable and it is a uniform rate, then the railway companies will issue the through bill of lading to those steamship lines that have signed the agreement.

"Q. If he does not ship on the line that has signed the agreement, you don't give him that through bill of lading?—A. No, we won't issue a through bill to any line that does not sign the agreement. I think that has been perfectly clear all through. (Trans. ps. 155-8)."

While the foregoing extracts do not comprise all of Mr. Fetterly's evidence it is sufficient to show that the main purpose of the railways in respect of Clause 6 of the new agreement insofar as through bill of lading traffic is concerned, is to:—

1. Promote uniform ocean rates as between the various ocean carriers signing the agreement;
2. Avoid issuance of through bills of lading in connection with "tramps" steamers;
3. Protect joint rail and ocean through rates where such are in effect.

Witnesses for the applicants stressed the fact that information as to rates charged by other lines was not readily obtainable and that the agreement provided no means whereby such information would be given. It must be noted, however, there was no disposition shown by the applicants to want to charge the same rates as other lines; in fact witness for Saguenay Terminals dwelt at some length upon the policies of his Company to establish its rates in conformity with the needs of export trade.

The argument of Counsel for the applicants was particularly directed to the violation of the Combines Investigation Act which would evolve from the signing of the agreement containing the Clause 6, *supra,* contending that an agreement entered into to fix rates in Canada is contrary to law; that under the Board's previous decision tramp ships would be entitled to the same treatment as other vessels if the required agreement appointing the railway as its agent was executed; that differences in rates as between ocean lines is not involved in the matter of issuance of through bills of lading as differences in rates involve only competition between ocean carriers; and that what is now offered to the steamship lines is simply perpetuating the condition which the Board's previous decision directed be removed.

Counsel for the railways contend that they have carried out the Board's decision and that the new agreement merely sets out the conditions under which the railway is prepared to act as agent for the steamship lines; that it is within the railway's discretion to decide the terms and conditions under which it will act as agent; that the interpretation of the Combines Investigation Act is not a matter for the Board's decision; and that the applicants want freedom to cut rates which outweighs any advantage which may accrue from participation in through bills of lading.

The railways further argue that the issuance of through bills of lading at varying ocean rates would involve the railway in difficulties with shippers as to through rates and other traffic. The following extracts from argument by Counsel appear to outline these difficulties:

> "Mr. Spence: For example, take two of our customers in Toronto competing against each other, one of them comes to us and says 'I want to ship 100 tons of my commodity to Liverpool and I want a through bill of lading via Cunard'. We make out the through bill of lading upon which a certain rate is set and shown.
>
> "If on the other hand Irish Shipping Company were to be given through bill of lading privileges without any binding division of rates equivalent to those charged by other companies and our other customer came in and said 'I want a through bill of lading by Irish Shipping Company to Liverpool for my 100 tons' we would give him a reduced rate, a reduced rate would be shown in the bill of lading as Canadian Pacific as one of the parties to the bill of lading.

"Now back comes our first customer and says 'What do you mean by issuing a bill of lading to my competitor at a lower rate for the same goods, the same quantity, than you gave me'. And while perhaps we would be legally protected, technically protected, because that would be just a difference in rates on the ocean and the railway itself would not be in trouble perhaps, nevertheless we would certainly have made an enemy of one of our customers.

"It is necessary for us to know what those rates are to be by the steamship lines and to have them uniform by the steamship lines before we want to put our names as agents on those through bills of lading.

"On the other hand, when the demand comes in and the first one comes in and says 'I want a through bill of lading via Cunard' should we say 'Well, why ship by Cunard when you can get a cut rate by Irish Shipping?' Perhaps in justice to our customer we should do that, but if we do then we are in difficulties with Cunard.

"Now, a further complication would be that we would be undercutting our own through rate in some cases. We publish through single factor rate on some commodities that carry the goods right through to destination, that is right through via rail and steamship. But if we issued through bills of lading by one of the cut rate lines the rate that we collected would be lower than our own published rates.

"So it is not because of any malice towards the complainants or any whimsy or anything of that kind that we are taking this position and that we have inserted this condition in our agreement. The condition is required for good, practical, business reasons and without it we would be in an impossible position both with our ships and our connecting carriers. (The word "ships" is probably intended as "shippers").

"So I do say we are acting reasonably, in a way that we are perfectly entitled to act, to set the standards and conditions upon which we are prepared to act as agents for steamship companies in the issuance of through bills of lading, and as long as we say those terms are open to everyone, every steamship company that is prepared to abide by those terms will get the through bills of lading, we are not discriminating, we are not subjecting anyone to unjust prejudice. And if any steamship company says, as Mr. Boyle said at the opening of his evidence, the terms offered are not satisfactory, well that is a matter for the discretion and judgment of this particular company. We are not forcing him to sign the agreement. We are merely saying that the companies that do maintain stable rates at a uniform level are the ones that will be accepted by us on an agency basis." (Trans. ps. 179-82).

Discussions and Conclusions:

In summarizing the issues involved I have included somewhat lengthy excerpts from the Transcript in order that a full appreciation may be had of the views of the railways in particular. The Transcript is also extensively spread with the views of the applicants but their position is much clearer—they haven't the privilege of through bills of lading and want them.

It must be remembered that in our previous Judgment we expressed the opinion that the railways are not required by the Railway Act to issue through bills of lading, but when they do so via certain ocean lines and not via others, the question becomes one for consideration in respect of the prohibitions of the Act as to undue preference and prejudice.

Our finding was therefore solely founded on such provisions of the Act.

As mentioned previously Counsel for the applicants alleged that the new agreement violates the provisions of The Combines Investigation Act. In view of our findings herein, which I shall later state, it would not seem necessary to deal with this contention.

The only point to now consider is whether the railways have carried out the direction contained in our Order No. 84457.

While I do not think there is any obligation on our part to interpret the meaning of the contested Clause 6 of the new agreement in the sense of any dispute which may arise concerning it between signatory parties, nevertheless it is necessary to give it consideration in order to fully appraise its place in the dispute now and here involved.

It seems to me that the Clause can have two meanings; (1) that all steamship lines charge the same rates as each other, thereby leaving in doubt whose rates are thus adopted, or (2) that a signatory steamship line who signs the agreement after other lines have signed must adopt the rates of the line or lines who signed first.

Neither the evidence of Mr. Fetterly or the argument of Mr. Spence (both representing the Canadian Pacific Railway Company) deals with this anomaly. They say, in short, that the railway is only concerned that the ocean carriers charge the same rate uniformly, therefore such views seem to come within the first meaning I have stated above.

If this premise is correct, and I do not assert that it is, and Irish Shipping Limited has signed the agreement its obligations to charge the same rate as all other lines is no greater, in my opinion, that the obligation of the other lines to charge the same rate as Irish Shipping Limited. Hence it would seem that by signing the agreement this sort of a controversy could easily arise, but I do not think the Board is the one to rule upon it.

I am impressed with the lack of material difference between this Clause and the condition prevailing at the time of the previous case. Mr. Fetterly seemed to consider the difference was material, but while the former condition for the issuance of through bills of lading was that membership in a Conference, or that there be an agreement on rates where no Conference existed, was the measure of willingness to grant through bills of lading, I cannot find that the new clause does any more than erect the same sort of a barrier as previously existed.

No matter which of the two interpretations of Clause 6 is applied it is obvious that the said Clause imposes a requirement that ocean lines charge the same rate as each other. By the former provision requiring membership in a Conference as a prerequisite to granting through bills of lading privileges it is necessary to consider what a Conference is and what it does.

Counsel for Saguenay Terminals Limited read into the record an extract from "Marine News" which spoke of Conferences, as follows:

> "It is the time-honoured practice for common carriers that compete in the same mode of transportation to make agreements with each other for the fixing of rates. To facilitate the determination of rates and the changing of them from time to time, such an agreement generally calls for the creation of an intercarrier organization called a conference. As a rule, the conference so fixes rates that all member carriers will charge the same rate for the same service; thus rate competition between members is eliminated. In ocean transportation a conference confines itself to a certain trade (transportation between two certain areas) and usually to a certain direction within that trade—for example, eastbound transportation in the North Atlantic trade. Within such limitations, a steamship conference represents all the steamship lines that wish to joint it." (Trans. p. 170).

While this explanation of a Conference was not challenged, I have referred to certain text books in our library and find that the explanation above cited is supported by what is said in:

"Principles of Ocean Transportation" by Johnson and Huebner, Chap. 19.

"Transportation by Water" by Johnson, Huebner & Henry, Chap. 22.

"Transportation and Traffic Management, Vol. 3" by Knorst, Chap. 52.

but I feel it is unnecessary to set out any extracts therefrom.

While the former requirement of Conference membership as a prerequisite to the issuance of through bills of lading was more stringent than the proposed requirement of rate equality between ocean lines, nevertheless the objective of both requirements is obviously the same—to require uniform rate making by the ocean lines. Consequently, I cannot see that substituting Clause 6 for the former Conference membership requirement in any way alters the finding made in our previous Judgment, and I am of the opinion that the present application must be sustained.

I have given careful consideration to the argument of Mr. Spence, extracts of which I have set out herein. The general impression obtained from what he said is that the railway would be in the position of issuing a through bill of lading as an initial procedure in the movement of export goods. He refers somewhat extensively to hypothetical customers being given different treatment by the railway and the embarrassment which might flow therefrom. He also sets out that the railway might be faced with the necessity of advocating the particular steamship line for ocean movement and that the railway would be undercutting its own through rates which are, in certain cases, established jointly with certain steamship lines.

I have examined the proposal form of agreement, Exhibit No. 4, of which Clause 6 forms a part, and the following is Clause 11 thereof:—

"IT IS MUTUALLY AGREED:"

"11. The Railways will collect, if requested, for and on behalf of the Steamships, such prepaid ocean charges as are assessable under any contracts or agreements between shippers and the Steamships, based upon weights upon which railway freight charges have been assessed or measurements furnished by the shipper. Such contracts or agreements between shippers and the Steamships shall contain the rate of ocean carriage upon which the ocean charges will be based. If any difference occurs between the charges so collected and the charges demanded by the Steamships, such differences will be adjusted directly between the steamships and the shippers. Any differences which are due to fault on the part of the Railways will be adjusted by them directly with the Steamships and in particular, but not so as to limit the generality of the foregoing, any differences which occur because of the failure of the Steamships to include the ocean rate in their contract with the shipper, or because an incorrect rate has been included in such contract, will not be considered to be due to a fault on the part of the Railways."

In reviewing the Transcript of the Hearing in the previous case, I find the following was stated with respect to the procedure followed in the issuance of through bills of lading:—

"Mr. Spence. The through bill of lading itself is in respect of a movement that is not within the Board's jurisdiction. The shipment for the part of the journey via the Canadian Railways, that is under the Board's jurisdiction and is covered by a rail bill of lading which is a

separate document. Of course, the Board has jurisdiction over that movement in Canada on the Canadian Railways and that movement is covered by the rail bill of lading." (Vol. 948, ps. 4242-3).

"Mr. Spence. . . . Anyone who comes into a railway office and says: 'I have a shipment to go Overseas' is treated in exactly the same way. We issue him a rail bill of lading. Then he says:—'Now I want to forward this Overseas'. We say: 'By what Steamship Company?' If he says, for example, Furness-Withey which is one who has designated us to sign through bills of lading we will take in the rail bill of lading and hold it and issue a through bill of lading as agent for Furness-Withey." (p. 4244).

"Mr. O'Donnell. As I understand it, the goods are taken to the ocean ports by the railways on a straight rail bill of lading and that is the basis upon which the carriage is to the ocean port."

"Mr. Coyne. (Quoting from letter from the Railway Association to the Board, dated May 13, 1954)

> 'Traffic moving from inland points to seaboard for export is always forwarded under a rail bill of lading covering the rail haul.' " (p. 4259).

"Mr. Spence: Now the movement, in my submission, takes place under the rail bill of lading; otherwise, why do we go through this routine of issuing a rail bill of lading? When a shipper comes into our office in Toronto, for example, and says: 'I have a shipment that I want to send Overseas', we say: 'Very well, deliver the shipment to us and we will issue you a rail bill of lading.'

"The Assistant Chief: But first of all he has to get his accommodation on a vessel."

"Mr. Spence: Yes, he has to get space on the vessel. But if we were moving the shipment to the seaport under the through bill of lading why should we issue him a rail bill of lading. But we do. We issue him a rail bill of lading first of all every time to cover the movement of that shipment to the seaport." (p. 4270).

"Mr. Spence: My submission is that that is the bill that actually covers the shipment. That is a contract that is made with him for that movement to the seaport. Now, he says: 'But I want a through bill of lading'. We say: 'With what company?' He names a company and we say: 'Yes, that is one of the companies that has made an agreement for us to sign through bills of lading on their behalf' and we issue him a through bill of lading. But before we issue that through bill of lading we take back the rail bill of lading and we keep that rail bill of lading in our files" (ps. 4270-1).

From these extracts it is quite apparent that before any issuance of a through bill of lading is undertaken there must have been action to actually ship the goods to the seaboard. The through bill of lading replaces the domestic bill of lading and the latter is taken up and retained by the railway. This procedure is further exemplified by Clause 12 of the proposed agreement (Exhibit No. 4) which reads:

> "12. In order to avoid the possibility of a through bill of lading and an ocean bill of lading being issued covering the same shipment moving for export by rail, the parties hereto agree that before a through or ocean bill of lading is issued they will obtain, cancel, and retain the signed inland straight bills of lading."

The general procedure followed by a shipper who desires ocean transportation for his goods, is to contact the steamship line and obtain full particulars as to name of vessel, sailing date and rate of freight. If the necessary space is booked a contract or form of engagement note is issued by the steamship line containing all necessary details as to name of ship, loading date, ports, description of goods and rate of freight.

The shipper takes out a straight railway bill of lading consigning the goods to the seaport. If a through bill of lading is not required he must then make arrangements to secure an ocean bill of lading applying from the port of loading, but if a through bill of lading is required he applies to the railway to whom he surrenders the inland bill of lading and the steamship contract.

Under these conditions it is difficult to apprehend the circumstances related by Mr. Spence as to advising the shipper desiring a through bill of lading as to what ocean carrier he should use. All the evidence points to the fact that when the shipper applies for a through bill of lading he has already committed himself to the ocean line of his choice and that the goods are already in rail transit—otherwise how could he present an original rail bill of lading for exchange?

Mr. Spence also refers to the railway undercutting its own through rates. The bill of lading procedure involved in the movement of traffic under point rail-ocean through rates is the same as when there are no through rates to apply, but reference to Canadian Freight Association tariff 30-M. Agent Watson's C.T.C. No. 1538, on file with us, shows in general that such rates are "Applicable only on traffic covered by through bills of lading". It would thus appear incumbent upon shippers utilizing such through rates to surrender their inland bills of lading and take out through bills of lading. Again it would appear that the matter of the issuance of the through bill of lading is subsequent to the actual shipment of the goods.

Under all these circumstances I am unable to accept the argument of Counsel that the difference in ocean rates imposes on the railway the charging of different ocean rates to shippers of the same or similar goods, or that it has any function to perform to bring to the attention of shippers the differences in ocean rates when the matter of issuance of through bills of lading is before the railway.

If any obligation fell upon the railway to advise shippers as to ocean rates it would appear that the time to do so would be before shipment was actually made by rail. At that time no through bill of lading could be issued as the shipper would not be able to surrender the inland rail bill of lading. It is also doubtful that the railway would be in possession of the rates charged by all ocean lines although it might conceivably be aware of rates via Conference lines.

To sum up the matter at issue, I am of the opinion that the substitution of Clause 6 for the former Conference membership requirement does not meet the direction contained in our Order No. 84457. I find that the railways have not discharged the obligations placed upon them thereby by the method adopted.

Order will issue declaring that the Canadian Pacific Railway Company, the Canadian National Railway Company and other members of the Railway Association of Canada have failed to do what they were required to do by Order No. 84457.

OTTAWA, April 28th, 1955.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 86087

In the matter of the application of Irish Shipping Limited under section 33 and all other relevant sections of the Railway Act:

(a) for an order declaring that the Canadian Pacific Railway Company, the Canadian National Railways and other members of the Railway Association of Canada have failed to do what they were required to do by Order No. 84457, dated August 31, 1954; and

(b) for such further or other relief as to the Board may seem just and proper:

File No. 3678·34·1

FRIDAY, the 29th day of April, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Ottawa on January 27th, 1955, in the presence of Counsel for Irish Shipping Limited, Saguenay Terminals Limited, The Railway Association of Canada, Canadian National Railways, Canadian Pacific Railway Company and Canadian-United Kingdom Eastbound Freight Conference—

It is declared that the Canadian Pacific Railway Company, the Canadian National Railway Company and other members of the Railway Association of Canada have failed to do what they were required to do by Order No. 84457.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86305

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 54:

File No. 40994·46

MONDAY, the 30th day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 54 on file with the Board under file No. 40994·46, be, and it is hereby, approved; and that the date as from which the said Supplement No. 2 shall be deemed to have become operative is hereby fixed as April 25, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86311

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 70:

File No. 40994·64

TUESDAY, the 31st day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 70 on file with the Board under file No. 40994·64, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as April 26, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86313

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated April 19th, 1955:

File No. 40994·76

TUESDAY, the 31st day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated April 19th, 1955, between the parties named in paragraph A thereof, applying on Silicate of Soda as described in paragraph B thereof, from Toronto, Ontario, to New Westminster, Vancouver and Victoria, British Columbia, and to the unnamed destinations in Condition 6 thereof, on file with the Board under file No. 40994·76, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 20th day of April, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86314

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated April 20, 1955:

File No. 40994·77

TUESDAY, the 31st day of May, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated April 20, 1955, between the parties named in paragraph A thereof, applying on iron or steel skelp as described in paragraph B thereof from Hamilton and Sault Ste. Marie, Ontario, to Port Moody, British Columbia, and to the unnamed destinations in Condition 6 thereof, on file with the Board under file No. 40994·77, be, and it is hereby approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 21st day of April, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86340

In the matter of the application of the Yellowknife Transportation Company, hereinafter called the "Applicant Company", for a licence under section 10 of the Transport Act:

File No. 42076·31

MONDAY, the 6th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 308 be issued to the Applicant Company licensing for the period of one year commencing February 9, 1955, the following ships to transport goods by water between all ports and places in Canada accessible by navigation to the said vessels, on the Mackenzie River, Great Slave Lake and Slave River, Fort Smith, N.W.T. and north thereof:

1. *Vessel Name*	*Official Registry No.*	*Gross Tonnage*
Sandy Jane	177764	96
Richard E.	179446	106
YTC 101	177761	234
YTC 102	177762	234
YTC 104	190800	234
Saline	192902	23
YTC 15	Not registered	250
YTC 16	Not registered	250
YTC 106	156749	196
YTC 105	179634	190
YTC 12	Not registered	103

2. On Great Slave Lake and Mackenzie River, Fort Simpson and south thereof.

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Grandy II	197357	21

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86248 May 19—Requiring the C.N.R. to install certain protection at the crossing of Perry Street and Aylmer Street, Peterborough, Ontario.

86249 May 19—Requiring the C.N.R. to install certain protection at the second crossing east of the station at Cross Point, Quebec.

86250 May 19—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 3 at mileage 16·93 Port Burwell Subdivision, Ontario.

86251 May 19—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Glenboro Subdivision, Manitoba.

86252 May 19—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages, LaRiviere Subdivision, Manitoba.

86253 May 20—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86254 May 20—Approving plans showing the general layout and details of the bridge constructed at mileage 2·0 Inverness Subdivision, Nova Scotia. (C.N.R.).

86255 May 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Coderre, Saskatchewan.

86256 May 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Neville, Saskatchewan.

86257 May 20—Authorizing the C.P.R. to make signal changes at Minnedosa, Man.

86258 May 20—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86259 May 24—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Kinburn, Ontario.

86260 May 24—Approving revised plans showing the general layout and detail of the bridge at mileage 4·2 Inverness Subdivision, Nova Scotia. (C.N.R.).

86261 May 24—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along certain public highways in the Township of Harwich, County of Kent, Ontario.

86262 May 24—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86263 May 24—Approving proposed location of storage tank, etc. of C.N.R., near their tracks in Fort Rouge Yard, Winnipeg, Manitoba.

86264 May 24—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Roland Station, Manitoba.

86265 May 24—Approving revised plans showing general layout and detail of the bridge constructed at mileage 0·5 Inverness Subdivision, Nova Scotia. (C.N.R.).

86266 May 24—Authorizing the Village of Consort, Alberta, to construct a water main across the C.P.R.

86267 May 24—Permitting the removal of slow order at C.N.R. crossing north of Holland Landing, Ontario.

86268 May 24—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Acadia Valley, Alberta.

86269 May 24—In the matter of the application of Canada Packers Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69. (butter carloads).

86270 May 24—In the matter of the application of Ponder Oils Limited, for approval of the location of a proposed oil well and works to be drilled on a portion of the Station Grounds of the C.P.R., in the Town of Virden, Manitoba.

86271 May 24—Permitting the removal of slow order at C.P.R. crossing east of the station at Cranbrook, British Columbia.

86272 May 26—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 53.

86273 May 26—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 57.

86274 May 26—In the matter of approval of plan submitted to the C.P.R. by the Standard Oil Company of British Columbia Limited, showing proposed location of storage tank, etc. at Salmon Arm, British Columbia.

86275 May 26—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Climax, Saskatchewan.

86276 May 26—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Stewart Valley, Saskatchewan.

86277 May 26—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Kayville, Saskatchewan.

86278 May 26—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Murray Harbour, Prince Edward Island.

86279 May 26—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated April 12, 1955. (Pig Iron, carloads).

86280 May 26—Permitting the removal of slow order at C.N.R. crossing east of the station at Mandaumin, Ontario.

86281 May 26—Authorizing the C.P.R. to operate under the overhead bridge at mileage 2·8 Crowsnest Subdivision, Alberta.

86282 May 26—Authorizing the C.N.R. to construct an extension of their passing track across the highway in the Township of Rowell, Ontario.

86283 May 26—Approving proposed location of storage tank, etc. of the Shell Oil Company of Canada Limited, near the C.N.R. tracks at Carleton, Quebec.

86284 May 26—Permitting the removal of slow order at C.N.R. crossing at mileage 546·1 Port aux Basques Subdivision, Newfoundland.

86285 May 26—Permitting the removal of slow order at C.N.R. crossing at mileage 135·8 Unity Subdivision, Alberta.

86286 May 26—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86287 May 26—Authorizing Messrs. Frank and John Ronacher, Clearwater, B.C., to construct a road across the Trans Mountain Oil Pipe Line Company's right-of-way in District Lot No. 1718, Kamloops Division, Yale District, British Columbia.

86288 May 27—Authorizing the Township of Schreiber to construct the highway across the C.P.R. at Schreiber, Ontario.

86289 May 27—Authorizing the C.N.R. to operate the bridge over Smith Creek, Ontario, mileage 15·2 Maynooth Subdivision.

86290 May 27—In the matter of approval of plan submitted to the C.N.R. by Cities Service Oil Company, showing the proposed location of storage tank, etc. at Clinton, Ontario.

86291 May 27—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of storage tanks, etc. at Dauphin, Manitoba.

86292 May 27—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Oyen, Alberta.

86293 May 27—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Dodsland, Saskatchewan.

86294 May 27—Permitting the removal of slow order at Dominion Atlantic Railway Company crossing west of the station at Imbertville, Nova Scotia.

86295 May 27—Permitting the removal of slow order at C.N.R. crossing of Mount Pearl Park, at Mount Pearl, Newfoundland.

86296 May 27—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along certain public highway in the Township of Chatham, County of Kent, Ontario.

86297 May 27—In the matter of the application of Modern Dairies Limited, Winnipeg, Manitoba, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69.

86298 May 27—Authorizing the Dominion Atlantic Railway Company to replace the timber trestle with a corrugated structural plate culvert and fill at mileage 11·02 Yarmouth Subdivision, Nova Scotia.

86299 May 27—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86300 May 27—Permitting the removal of slow order at C.N.R. crossing of Sherman Avenue, Hamilton, Ontario.

86301 May 30—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the Ravenscliffe Telephone Company Limited.

86302 May 30—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Charlevoix & Saguenay.

86303 May 30—Permitting the removal of slow order at C.N.R. crossing of Highway No. 15, at Rideau, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

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In the matter of the application of the Montreal and Southern Counties Railway Company for an Order authorizing it to abandon the operation of its line of railway, including the operation of the trains it operates on lines of the Canadian National Railways, as shown on the map attached to the application:

File No. 39310·65

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

J. W. G. MACDOUGALL, W. G. BOYD, P. TASCHEREAU, H. J. G. PYE, for the Montreal and Southern Counties Railway Company (C.N.R.)

E. E. COCKERTON, for the Parish of St. Hubert.

RODOLPHE PARE, for Ste. Angele de Monnoir, P.Q.

GASTON RONDEAU, for the Town of Marieville, P.Q.

Heard at Montreal, P.Q., on May 3, 1955.

JUDGMENT

KEARNEY, J., Chief Commissioner:

At the close of the hearing on May 3, 1955, we gave oral judgment indicating the extent to which we were satisfied that the Applicant Company should have relief. We were concerned, however, with the possibility that communities presently being served by the railway would be left without an adequate

alternative service if the application were granted in full, and that was one of the reasons why we were then not disposed to grant the full relief applied for. At that time neither the Montreal and Southern Counties nor the Canadian National Railways had undertaken to furnish or to cause to be furnished passenger services that would serve the communities affected by the abandonment of lines and services applied for by the Applicant Company and there was uncertainty as to whether adequate alternative services would be provided. However, since our oral judgment was given the Canadian National Railways have come forward with a proposal to take care of the Montreal and Southern Counties passenger patrons between Marieville and M. & S.C. Junction for a period after the completion of the proposed vehicular roadway on the east side of Victoria bridge. We have been requested in the light of that proposal to review our oral judgment and we have done so after having had the benefit of discussions in that respect with the railways concerned and with counsel who appeared on behalf of the other interested parties at the hearing.

The proposal now made by the C.N.R. is that until such time (not exceeding one year after the date of the completion of the proposed roadway) as a reasonably adequate highway transportation service becomes available to persons now using the services of the M. and S.C. between Marieville and M. & S.C. Junction, the C.N.R. will operate an adequate temporary rail passenger service for such persons between Marieville and Central station (Montreal) by means of its trains now operating between Granby and Montreal, supplemented by such other railway services as may be necessary during that period while a bus service is being organized. The Canadian National's proposal was conditional on the granting of the M. & S.C.'s application, except in so far as the application affects the latter's operations between Marieville and Ste. Angele de Monnoir.

The C.N.R.'s proposal does much to remove the concern we felt over the effect of abandonment by M. & S.C. of its operations between M. & S.C. Junction and Marieville without the provision of suitable alternative service.

Altogether apart from the considerable and continuing financial losses suffered by the M. & S.C. in its operations, the proposed construction of the vehicular roadway on Victoria bridge, necessary as it in the great St. Lawrence Seaway project, warrants the granting of the application, substantially even if not in full. We consider that we should reserve for further consideration the part of the application requesting leave to abandon the line between Marieville and Ste. Angele de Monnoir and operation thereover. We will dispose of that part within the next eight months.

An Order will therefore issue

(1) authorizing Montreal and Southern Counties Railway Company to abandon the operation of its line of railway between McGill Street station and St. Lambert concurrently with the commencement of the work of construction of the proposed vehicular roadway on the east side of Victoria bridge.

(2) Authorizing the Applicant Company to abandon the operation of its lines of railway between Montreal South and St. Lambert and between M. & S.C. Junction and St. Lambert at the expiration of thirty days after the completion of the paving of the said vehicular roadway and its opening for traffic.

(3) authorizing the Applicant Company to discontinue operation of its train services between M. and S.C. Junction and Marieville at the expiration of the thirty days mentioned in paragraph (2).

(4) that the authorizations in paragraphs (2) and (3) are conditional on Canadian National Railways providing a shuttle service operating between Central Station and St. Lambert station, making connections with the Applicant Company's trains at St. Lambert during the period between the abandonment of operation authorized in paragraph (1) and the abandonment of operation and discontinuance of service authorized in paragraphs (2) and (3), and that the authorization in paragraph (3) is conditional on Canadian National Railways providing, until such time (not exceeding one year after the completion and opening for traffic of the said vehicular roadway) as a reasonably adequate highway transportation service becomes available to persons who now use the services of the Applicant Company's railway between Marieville and M. & S.C. Junction, an adequate temporary rail passenger service for such persons between Marieville and Central Station, Montreal, by means of Canadian National trains now operating between Granby and Montreal, supplemented by such other rail services as may be necessary during that period while a bus service is being organized.

This judgment supersedes and cancels the oral judgment given at the close of the hearing.

JOHN D. KEARNEY.

May 27, 1955.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 86306

In the matter of the application of the Montreal and Southern Counties Railway Company for an Order authorizing it to abandon the operation of its line of railway, including the operation of the trains it operates on lines of the Canadian National Railways, as shown on the map attached to the application:

File No. 39310·65

FRIDAY, the 27th day of May, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in Montreal on May 3rd, 1955, in the presence of Counsel for the Montreal and Southern Counties Railway Company (C.N.R.), the Parish of St. Hubert, the Town of Ste. Angele de Monnoir and the Town of Marieville—

It is ordered

1. That Montreal and Southern Counties Railway Company be, and it is hereby authorized to abandon the operation of its line of railway between McGill Street station and St. Lambert concurrently with the commencement of the work of construction of the proposed vehicular roadway on the east side of Victoria bridge.

2. That the Applicant Company be, and it is hereby authorized to abandon the operation of its lines of railway between Montreal South and St. Lambert and between M. & S.C. Junction and St. Lambert at the expiration of thirty days after the completion of the paving of the said vehicular roadway and its opening for traffic.

3. That the Applicant Company be, and it is hereby authorized to discontinue operation of its train services between M. & S.C. Junction and Marieville at the expiration of the thirty days mentioned in paragraph (2).

4. That the authorizations in paragraphs (2) and (3) are conditional on Canadian National Railways providing a shuttle service operating between Central Station and St. Lambert station, making connections with the Applicant Company's trains at St. Lambert during the period between the abandonment of operation authorized in paragraph (1) and the abandonment of operation and discontinuance of service authorized in paragraphs (2) and (3), and that the authorization in paragraph (3) is conditional on Canadian National Railways providing, until such time (not exceeding one year after the completion and opening for traffic of the said vehicular roadway) as a reasonably adequate highway transportation service becomes available to persons who now use the services of the Applicant Company's railway between Marieville and M. & S.C. Junction, an adequate temporary rail passenger service for such persons between Marieville and Central Station, Montreal, by means of Canadian National trains now operating between Granby and Montreal, supplemented by such other rail services as may be necessary during that period while a bus service is being organized.

JOHN D. KEARNEY,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

In the matter of the complaint of the Jeune Commerce Inc., of Nicolet, P.Q., with respect to the proposed discontinuance of service of Canadian National Railway Trains 645 and 646 between Montreal and Nicolet, in the Province of Quebec.

File No. 27563·181

HEARD at Nicolet, Quebec, on May 17th, 1955.

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

Mr. W. G. BOYD and Mr. E. D. ANGERS, for the Applicant, the Canadian National Railways.

Mr. GERMAIN PRINCE, *President,* Jeune Commerce Inc., for the Jeune Commerce Inc., Nicolet, Quebec.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

On February 11th, 1955, the Canadian National Railways served notice of their intention effective March 6th, 1955, to discontinue the operation of Trains 645 and 646 between Montreal and Nicolet via Sorel.

As was indicated during the course of the hearing, railway companies coming under the Board's jurisdiction are not permitted to completely abandon passenger train service on any particular line without the Board's approval. Partial reductions in train service, however, do not require the advance approval of the Board. The Board does, in such cases, receive a copy of the notice setting out particulars of the proposed changes and reserves the right, upon due complaint, to direct that the change be deferred pending investigation.

Following representations made to the Deputy Chief Commissioner in this case, the Board directed the Canadian National Railways on February 23rd, 1955, to continue these two trains in service pending investigation of the complaints.

Upon reviewing the nature and substance of the objections to the removal of these two trains, the Board set the case down for hearing at Nicolet on April 5th, 1955.

The hearing was subsequently postponed to May 17th, 1955, because of the serious fire which destroyed several buildings in the town of Nicolet. In the meantime, the Board continued its investigation with the object of securing full particulars of the effect of the changes on railway patrons in the area.

The Board's investigation indicates that the service for Trains 645 and 646 is performed with Motor Unit 15837, with a coach trailer, and the trains operate on the following schedule:

Train 645 (*Ex. Sunday*)				Train 646 (*Ex. Sunday*)
5:15 a.m.	Lv.	Nicolet	Ar.	8:05 p.m.
6:35 a.m.	Lv.	Sorel	Lv.	6:50 p.m.
8:00 a.m.	Lv.	Longueuil	Lv.	5:22 p.m.
8:09 a.m.	Lv.	St. Lambert	Lv.	5:17 p.m.
8:30 a.m.	Ar.	Montreal	Lv.	4:55 p.m.

A check of the carryings of these trains for a representative period prior to the hearing indicates that approximately 70 per cent of the passengers using the two trains in question travel between Montreal-St-Lambert and Longueuil. Patronage east of Longueuil is very light.

The Board's officers have also reviewed the patronage of this service over the past eight years and it is significant to note that there has been a gradual decrease in the number of passengers handled from year to year. The average number of passengers handled between Nicolet and Sorel, based on a recent check, amounted to four passengers per trip and the average number handled between Sorel and Nicolet for the same period amounted to six passengers per trip.

The improvement in the highways serving this particular area undoubtedly played an important part in diverting a substantial portion of the patronage formerly enjoyed by the railways on these trains. An excellent bus service is provided by the Provincial Transport Company between Montreal and Sorel, serving substantially the same area as the railway line. There is also a service provided between Montreal, Sorel, Nicolet and Ste. Angele de Laval by Les Autobus Sorel-Ste. Angele Ltee. This latter service provides a through bus service from Nicolet and Ste-Angele to Montreal, in addition to providing a more frequent local service between Ste. Angele, Nicolet and Sorel, at which point connection is made with the Provincial Transport. It seems evident, from the volume of service provided by the bus lines, that the travelling public find the highway service more convenient and, consequently, they are making much greater use of this service than they are of the railway passenger service.

A clear indication of the truth of these facts is found in the two memoranda filed by the Sisters in charge of many educational institutions attended by hundreds of young girls who come from different parts of the Province, but the traffic count shows that they are not using the railway but other means of transportation.

Undoubtedly the substantial reduction in patronage of the railway passenger service in this area prompted the railway company to consider reducing the service which they are providing and from the evidence produced by the representatives of the railway company at the hearing, there appears to be no doubt but that the company is suffering a substantial loss in continuing the operation of these two trains with the present limited patronage.

On the other hand, reductions in train service of this nature invariably result in some inconvenience to the railway patrons who continue to patronize the service. In this connection the Board has noted that, although Trains 645 and 646 provide a service for the entire area on this line between Nicolet and Montreal, the only objection received by the Board to the discontinuance of the service is from the Jeune Commerce Inc., of Nicolet.

We were informed that these two trains handle a fair volume of express, including a limited number of cans of milk, but there seems to be no reason why the express and milk traffic cannot be handled on the two remaining trains without resulting in serious inconvenience to the shippers or receivers of this traffic.

The only shipper of milk is Mr. Antoine Elie, who owns a large farm at La Baie, a few miles from Nicolet. He was heard as a witness and claimed that he would be greatly inconvenienced. I asked him how many cans of milk he was shipping and he said the average was twelve cans per day and price he paid was 32 cents a can. This milk is shipped to Longueuil and delivered there to a Montreal dairy company.

Consequently, after carefully considering all the aspects of the railway company's proposal to discontinue Trains 645 and 646 together with the able representations made in opposition to the move, the Board is of the opinion that there is not sufficient evidence to justify requesting the railway company to continue the operation of these two trains in face of the present depleted patronage. The railway company will, therefore, be permitted to effect this reduction in passenger train service concurrently with the next change of time-table in June.

It is noted, however, that the discontinuance of these two trains will deprive the railway patrons in the area of a service which enables them to travel into Montreal and return on the evening of the same day. In this connection, some representations were made to the Board to direct the railways to establish a conditional stop for the "Scotian" (Trains 59 and 60) at St. Leonard de Nicolet on flag. The Board considers that this is a reasonable request and will direct the railway company to stop the "Scotian" in both directions (Trains 59 and 60) at St. Leonard de Nicolet for passengers proceeding from or to Montreal and beyond and Levis and beyond. This arrangement will take effect concurrently with the discontinuance of the operation of Trains 645 and 646 on the understanding that, following a trial period of six months, this flag stop may be discontinued if the volume of business does not warrant continuing the arrangement.

Order to go accordingly.

A. SYLVESTRE.

OTTAWA, May 30th, 1955.

I concur:

H. B. CHASE.

ORDER No. 86317

In the matter of the complaint of the Jeune Commerce Inc., of Nicolet, P.Q., with respect to the proposed discontinuance of service of Canadian National Railways Trains 645 and 646 between Montreal and Nicolet, in the Province of Quebec:

File No. 27563·181

WEDNESDAY, the 1st day of June, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting of the Board held at Nicolet, in the Province of Quebec, on May 17th, 1955, in the presence of Counsel for the Canadian National Railways and a representative of the Jeune Commerce Inc., of Nicolet, P.Q.—

It is ordered that for a trial period of six months the Canadian National Railways stop the "Scotian" in both directions (trains 59 and 60) at St. Leonard de Nicolet for passengers proceeding from or to Montreal and beyond and Levis and beyond.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

En ce qui concerne la plainte du Jeune Commerce Inc. de Nicolet, P.Q., concernant le projet de discontinuation du service des trains nos 645 et 646 des Chemins de fer Nationaux entre Montréal et Nicolet dans la province de Québec.

Dossier 27563·181

Cause entendue à

Nicolet, P.Q., le 17e jour de mai 1955.

Devant:

A. Sylvestre, C. R., *Commissaire en chef suppléant*
H. B. Chase, C.B.E., *Commissaire.*

Ont comparu:

M. W. C. Boyd et M. E. D. Angers, pour les requérants, les Chemins de fer Nationaux.

M. Germain Prince, Président, Jeune Commerce Inc., pour le Jeune Commerce Inc., Nicolet, P.Q.

JUGEMENT

Sylvestre, Commissaire en chef suppléant:

Le 11 février 1955 les Chemins de fer Nationaux ont donné avis de leur intention, à compter du 6 mars 1955, de discontinuer l'exploitation des trains 645 et 646 entre Montréal et Nicolet via Sorel.

Comme il a été indiqué au cours de l'audience, les compagnies de chemins de fer tombant sous la juridiction de la Commission n'ont pas la permission d'abandonner complètement les services de train de voyageurs sur une ligne particulière sans l'approbation de la Commission. Toutefois des réductions partielles du service des trains ne requièrent pas une approbation préalable de la Commission. La Commission dans ces cas reçoit une copie de l'avis établissant les détails du changement projeté et se réserve le droit, après avoir reçu des plaintes dûment déposées, d'ordonner que le changement soit différé en attendant qu'une enquête soit faite.

A la suite de représentations faites au Commissaire en chef suppléant dans ce cas, la Commission a ordonné aux Chemins de fer Nationaux le 23 février 1955 de continuer le service de ces trains en attendant que les plaintes fassent le sujet d'une enquête.

Après avoir étudié la nature et la substance des objections faites contre l'enlèvement de ces deux trains, la Commission a inscrit le cas pour audience à Nicolet le 5 avril 1955. L'audience a par la suite été retardée au 17 mai 1955, à cause du sérieux incendie qui a détruit plusieurs édifices dans la ville de Nicolet. Dans l'intervalle, la Commission a continué son enquête dans le but d'obtenir des détails plus complets sur l'effet qu'exerceraient les changements sur les clients des chemins de fer dans cette région. L'enquête de la Commission indique que le service des trains 645 et 646 est effectué par l'unité motrice 15837, avec voiture remorque et que le train fonctionne à l'horaire suivant:

		Train 645 (*Ex. dimanche*)		Train 646 (*Ex. dimanche*)
Dép.	Nicolet	5.15 a.m.	Ar.	8.05 p.m.
Dép.	Sorel	6.35 a.m.	Dép.	6.50 p.m.
Dép.	Longueuil	8.00 a.m.	Dép.	5.22 p.m.
Dép.	St-Lambert	8.09 a.m.	Dép.	5.17 p.m.
Ar.	Montréal	8.30 a.m.	Dép.	4.55 p.m.

Un relevé du transport à bord de ces trains pendant une période représentative antérieure à l'audience indique qu'environ 70 p. 100 des voyageurs faisant usage des deux trains en question voyagent entre Montréal-St-Lambert et Longueuil. Les clients à l'est de Longueuil sont très peu nombreux.

Les fonctionnaires de la Commission ont également étudié la clientèle de ce service sur une période des 8 dernières années et, fait important à noter, c'est qu'il y a eu une diminution graduelle du nombre des voyageurs d'année en année. Le nombre moyen des voyageurs transportés entre Nicolet et Sorel, basé sur un récent relevé, s'élève à 4 voyageurs par voyage et le nombre moyen voyageant entre Sorel et Nicolet pour la même période s'élevait à 6 voyageurs par voyage.

L'amélioration des grandes routes desservant cette région particulière a sans doute joué un rôle important dans le détournement d'une partie substantielle de la clientèle dont jouissaient autrefois les chemins de fer à bord de ces trains. Un service d'autobus excellent est fourni par la Compagnie de Transport Provincial entre Montréal et Sorel, desservant à peu près la même région que la ligne ferroviaire. Les Autobus Sorel—Ste-Angèle Limitée fournissent également un service entre Montréal, Sorel, Nicolet et Ste-Angèle de Laval. Ces derniers fournissent un service direct d'autobus de Nicolet et Ste-Angèle à Montréal, en plus de fournir un service local plus fréquent entre Ste-Angèle, Nicolet et Sorel auquel endroit il se fait un raccordement avec le Transport Provincial. Il semble évident, d'après l'étendue du service fourni par les autobus, que le public voyageur trouve le service routier plus convenable et par conséquent il fait un plus grand usage de ce service qu'il ne fait du service des trains de voyageurs.

Une indication nette du bien-fondé de ces faits se trouve dans les deux mémoires déposés par les Sœurs qui sont chargées de plusieurs institutions d'éducation que fréquentent des centaines de jeunes filles qui viennent de différentes parties de la province, mais le relevé du trafic indique qu'elles n'utilisent pas le transport ferroviaire mais d'autres moyens de transport.

Il n'y a pas de doute que la réduction substantielle de la clientèle du service de train de voyageurs dans cette région a porté la compagnie de chemin de fer à prendre en considération la réduction du service qu'elle fournit et d'après les témoignages donnés par des représentants de la compagnie de chemin de fer à l'audience, il semble n'y avoir aucun doute que la compagnie subit une perte substantielle en continuant l'exploitation de ces deux trains avec une clientèle restreinte.

Par contre, les réductions dans le service des trains de cette nature causent invariablement quelque embarras aux clients du chemin de fer qui continuent de faire usage de ce service. Sous ce rapport la Commission a noté que, bien que les trains 645 et 646 fournissent un service pour la région entière entre Nicolet et Montréal, la seule objection reçue par la Commission au sujet de la discontinuation du service est venue du Jeune Commerce Inc. de Nicolet.

On nous a informé que ces deux trains transportent un volume assez considérable de messageries, y compris un nombre limité de bidons de lait, mais il ne semble y avoir aucune raison pourquoi les messageries et le lait ne pourraient pas être transportés par les deux trains qui restent sans causer des embarras sérieux aux expéditeurs ou destinataires de ce trafic.

Le seul expéditeur de lait est M. Antoine Élie qui possède une grande ferme à La Baie, à quelques milles de Nicolet. Il a été entendu comme témoin et prétend qu'il serait bien embarrassé. Je lui ai demandé combien de bidons de lait il expédiait et il a dit que la moyenne était de 12 bidons par jour et que le prix qu'il payait était de 32c. par bidon. Ce lait est expédié à Longueuil et livré à cet endroit à la Montreal Dairy Company.

Par conséquent, après avoir pris en sérieuse considération tous les aspects du projet de la compagnie de discontinuer les trains 645 et 646 de même que les fortes représentations faites en opposition à cette mesure, la Commission est d'avis qu'il n'y a pas suffisamment de preuve pour justifier une demande à la compagnie de continuer la mise en service de ces deux trains en présence de cette clientèle restreinte. Par conséquent il sera permis à la compagnie de chemin de fer d'effectuer cette réduction dans le service des trains de voyageurs concurremment avec le prochain changement d'horaire en juin.

Je note toutefois que la discontinuation de ces deux trains privera la clientèle du chemin de fer dans cette région d'un service qui lui permet de se rendre à Montréal et de retourner dans la même journée. Sous ce rapport, certaines représentations ont été faites à la Commission d'ordonner à la compagnie de chemin de fer d'établir un arrêt conditionnel sur signalisation du "Scotian" (trains 59 et 60) à St-Léonard de Nicolet.

La Commission considère que cette demande est raisonnable et elle ordonnera à la compagnie de chemin de fer de faire arrêter le "Scotian" à St-Léonard de Nicolet dans les deux directions (trains 59 et 60) pour les voyageurs en route de Montréal et au delà et de Lévis et au delà, ou à Montréal et Lévis et au delà, et retour. Cet arrangement entrera en vigueur concurremment avec la discontinuation de l'exploitation des trains 645 et 646 avec l'entente que, après une période d'essai de six mois, cet arrêt sur signalisation pourra être discontinué si le volume d'affaires ne justifie pas de continuer cet arrangement.

Une ordonnance sera émise en conséquence.

A. SYLVESTRE.

OTTAWA, 30 mai 1955.

J'agrée:

H. B. CHASE.

ORDONNANCE N° 86317

En ce qui concerne la requête du Jeune Commerce Inc., de Nicolet (P.Q.), au sujet du projet de discontinuation du service des trains 645 et 646 des chemins de fer Nationaux entre Montréal et Nicolet, dans la province de Québec:

Dossier n° 27563·181

MERCREDI, le 1er jour de juin, A.D. 1955.

A. SYLVESTRE, C.R., *Commissaire en chef suppléant*
H. B. CHASE, C.B.E., *Commissaire.*

Après avoir entendu la cause à une audience de la Commission tenue à Nicolet, dans la province de Québec, le 17 mai 1955, en présence de l'avocat des chemins de fer Nationaux et d'un représentant du Jeune Commerce Inc., de Nicolet (P.Q.)—

Il est ordonné que pour une période d'essai de six mois les chemins de fer Nationaux fassent arrêter le "Scotian" dans les deux directions (trains 59 et 60) à St-Léonard de Nicolet pour les passagers qui se rendent de Montréal et au delà et de Lévis et au delà et à Montréal et au delà et à Lévis et au delà.

HUGH WARDROPE,
Commissaire en chef adjoint,
La Commission des transports du Canada.

In the matter of the application of Westcoast Transmission Company Limited, dated April 28, 1955, for an Order extending until October 31, 1957, the time for construction and completion of its proposed company pipe line for which leave to construct was granted by Order No. 79957, dated October 11, 1952, and granting leave to increase the diameter of the line to 30 inches and to make certain changes in the general location of the said line, including the elimination of the laterals to Kamloops and Vancouver, and the elimination of the pipe line from Brookmere to Osoyoos for which leave to construct was granted by Order No. 81285, dated May 2, 1953; the revised general location being shown on the map attached to the said application:

File No. 45371·3·5

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Appearances:

D. P. MCDONALD, Q.C., and R. C. MERRIAM, for Westcoast Transmission Company Limited.

A. BRUCE ROBERTSON, Q.C., for British Columbia Electric Company Limited.

ERIC PEPLER, Q.C., for the Attorney-General of British Columbia.

M. E. CORLETT, J. A. MARGACH, L. A. SHERWOOD, for Valley Natural Gas Distributors Limited.

PERCY LIVINGSTONE, PETER JENEWEIN, for Lower Mainland Municipalities of British Columbia.

W. T. RICHARDSON, for Municipality of Chilliwack.

Heard at Ottawa on May 19th and 20th, 1955.

JUDGMENT

KEARNEY, J., Chief Commissioner:

Westcoast Transmission Company Limited obtained leave of the Board to construct its natural gas pipe line project by Orders Nos. 79957, dated October 11, 1952, and 81285, dated May 2, 1953. The first of these Orders gave leave to construct the portion of the project from the Pouce Coupe area in Alberta to the vicinity of Vancouver and to a point on the international boundary near Huntingdon to serve the market area lying west of the Cascade Mountains embracing the cities of Vancouver, B.C. and Bellingham, Everett, Seattle, Tacoma and Portland and adjoining areas in the states of Washington and Oregon; the second order gave leave to construct the second phase, from Brookmere on the main pipe line to a point on the international boundary near Osoyoos to serve the market area lying between the Rocky Mountains and the Cascade Mountains comprising Spokane, the Atomic Energy plant at Hanford, (Washington), Northern Idaho and Princeton, Trail, Castlegar and Rossland areas in British Columbia.

An essential part of Westcoast's project was and still is the exportation of large quantities of natural gas to the United States and the construction there of pipe line facilities for the transmission of that gas from the international boundary to the markets. Westcoast made applications, through a subsidiary company, to the Federal Power Commission for authorization for construction

and operation of pipe line facilities in the United States connecting with its Canadian pipe line at the international boundary and for importation of its gas from Canada but was unsuccessful in that respect and its applications were denied by that Commission.

Westcoast thereupon sought access to United States' markets by means of other arrangements and has entered into an agreement with Pacific Northwest Pipeline Corporation designed to achieve that object. It is well known that at the time Westcoast's applications to the Federal Power Commission were denied Pacific Northwest was successful before that Commission in its applications for authority to construct and operate a pipe line to transmit gas mainly from New Mexico and Colorado to markets in Colorado, Utah, Wyoming, Idaho, Oregon and Washington.

Pacific Northwest also has a contract with El Paso Natural Gas Company, which is one of the largest gas companies in the United States and which presently supplies over 2 billion cubic feet per day to California and other areas. That company also buys gas from fields that are the common source of supply of other pipe lines supplying midwestern communities including Detroit, Chicago and Minneapolis.

Westcoast's agreement with Pacific Northwest will, if the proposal is sanctioned by the necessary authorities, make Westcoast's gas available to newer and wider markets than its former project contemplated.

Westcoast has consequently modified its overall project accordingly and has applied to this Board in general

(*a*) for leave to make certain changes in the general location of its pipe line, including the elimination of the lines—sometimes called laterals—to Kamloops and Vancouver and the elimination of the line from Brookmere to Osoyoos.

(*b*) for leave to increase the diameter of the line to 30 inches from 24 inches, and

(*c*) for an extension until October 31, 1957, of the time for construction and completion of the line.

PURCHASE CONTRACTS

Westcoast gave evidence in respect of its gas purchase contracts with Imperial Oil, Royalite, Canadian Fina, Pacific Petroleums, Peace River Natural Gas, Pathfinder Petroleums, Shell Oil Company, British American and others. These contracts and the evidence disclosed that Westcoast has contracted in Alberta for over 873 billion cubic feet of gas, another approximately 182 billion cubic feet of additional gas available there but not covered by specific contracts, and it has contracted in British Columbia for approximately 1431 billion cubic feet, making a total committed to the project of about 2·5 trillion cubic feet; also that there is additional gas available in the areas concerned of about half a trillion. The term of the contracts generally is for the life of the field with the exception of two in which the term is for 20 years from the date of first delivery with the right to renew. The price is fixed for twenty years and after that period is subject to re-negotiation. $2\frac{1}{2}$ trillion cubic feet is adequate to supply Westcoast's requirements for 20 years.

The price to the purchasers is $7\frac{1}{2}¢$ per m.c.f. when sales to the United States equal 300 million cubic feet per day, increasing to $10¢$ when the volume to the United States increases to 400 million cubic feet per day, with further price increases to $12\frac{1}{2}¢$ per m.c.f. by the eighteenth year.

GAS RESERVES

In our October 11, 1952, judgment we stated that Dr. Hume and his associate Mr. Ignatieff concluded that the proven and probable reserves of natural gas *in situ* in the Peace River area amounted to 2,506 billion cubic feet and we were of the opinion that the estimate was reasonable. We also stated that at that stage of development a reasonable overall estimate of the recoverable gas was 75 per cent of the gas *in situ*. Exploration and drilling since the date of that judgment have disclosed additional gas reserves in the Peace River area. Mr. Ralph E. Davis, an eminent consultant in geologic and engineering work in the natural gas field, gave additional evidence as to reserves at the hearing of this application. Among other statements he said that reserves in the order of half a trillion cubic feet have been found by new drilling during the past seven months. He was quite confident that the reserves of recoverable gas available to the project justify the enlargement of the line to 30 inches and are sufficient for the project. We keep closely in touch with the results of exploration and drilling in the Peace River area and we are also satisfied that an adequate supply of gas will be available to Westcoast for its project.

ALBERTA PERMIT

In October 1952, Westcoast had a permit from the Alberta authorities for removal of gas from the province. The permit was for a 22 year period, with an initial allotment of 210 billion cubic feet for the first five years. Recently Westcoast obtained an amended permit dated May 3rd, 1955, following a hearing by the Petroleum and Natural Gas Conservation Board. Under the amended permit Westcoast has authority to export from Alberta 1,080 billion cubic feet during the life of the permit, not to exceed 56 billion cubic feet per year nor 190 million cubic feet per day. The permit has been extended for 25 years.

It thus appears that Westcoast now has a much more favourable permit than it had when it was before us and the Federal Power Commission on its former applications.

FEDERAL PERMIT

Mr. R. W. MacLean, of the Department of Trade and Commerce, stated that the Governor in Council authorized a licence to Westcoast in connection with its former project and that the present project is understood by the Department and it is prepared to authorize the export to the United States of the quantities of gas required.

SALES CONTRACTS

Evidence was also given at the hearing as to sales contracts entered into by Westcoast with Pacific Northwest Pipeline Corporation, British Columbia Electric Company Limited and Inland Natural Gas Company Limited.

The major of these contracts, from the standpoint of volume of gas, is the contract with Pacific Northwest. Under that contract Pacific Northwest will take or pay for 90 per cent of the quantities specified in the contract, which are 200 million cubic feet per day initially, increasing to 300 million cubic feet per day on January 1st, 1959, with provision for a further increase by agreement of the parties to 400 million cubic feet per day. The price on a 90 per cent load factor basis is 22¼¢ per 1,000 cubic feet prior to January 1st, 1959, and 22¢ thereafter.

Authorization is being sought from the Federal Power Commission for the importation of the gas, for the construction and operation of the additional pipe line facilities in the United States required thereby and for a Presidential permit.

Westcoast's contract with Inland Natural Gas Company Limited provides for a development period prior to November 1st, 1958, in which there is no obligation on Inland's part to purchase any particular volume, and thereafter Inland is required to purchase approximately 21 million cubic feet per day during 1959 and approximately 27 million cubic feet per day in 1960 and each year thereafter. The contract calls for a demand charge of $3.21 per month for every m.c.f. of the demand contract, and for gas actually taken 20¢ m.c.f., and in addition interruptible industrial gas is offered at 22¢ flat. This is the same rate as charged to the British Columbia Electric Company and is the same rate as will be offered by Pacific Northwest to Portland, Seattle, Tacoma and other communities, that is a $3.21 demand plus 20¢ commodity charge.

The Inland Company already owns gas transmission lines in British Columbia and Alberta and gas production in cooperation with Pacific Petroleums. The company is regarded as financially responsible and proposes to distribute natural gas to communities in the interior of British Columbia, taking its gas from Westcoast's line in the vicinity of (a) Prince George, (b) Quesnel, (c) Williams Lake, (d) Savona for service to Kamloops, North Kamloops, Vernon, Kelowna, Penticton and other communities en route, (e) Merritt, and (f) other delivery points as shall be mutually agreed upon. The proposed service will be a wider service than was proposed by Westcoast in its original application.

Westcoast's contract with British Columbia Electric Company Limited calls for taking gas from Westcoast's main line in the vicinity of (a) Hope, (b) Agassiz, (c) Rosedale, (d) Chilliwack, (e) Sardis, (f) Huntingdon, for service to the Vancouver area and (g) other communities as shall be mutually agreed upon. The contract calls for an initial delivery of 21 million cubic feet per day increasing in 1960 to 50 million, with provision for an additional 8 million cubic feet per day under the same terms, conditions and price, the price being the same as to Inland and likewise guaranteed for 20 years.

I have recited only some of the more important terms of Westcoast's contracts with Pacific Northwest, Inland and British Columbia Electric. Copies of the contracts have been filed as exhibits and were discussed at some length by the witnesses at the hearing. Out of a total capacity of 660 million cubic feet per day upwards of 400 million cubic feet have been committed under the contracts. Having regard to the total capacity of the pipe line and the quantities committed under the above mentioned contracts it is clear that there is ample uncommitted capacity to serve the foreseeable market requirements of the Alberta and British Columbia areas concerned.

SIZE OF LINE AND CHANGES IN THE ROUTE

The present proposal is for a 30 inch diameter main line instead of the former 24 inch main line. There will be a smaller diameter gathering system in the Peace River area of British Columbia and Alberta joining with the main line there. The 30 inch line has obvious advantages over a 24 inch one.

Leave to make certain minor changes in the route of the line is requested, for engineering and other reasons. There was no objection to the granting of such leave, neither was there objection to the proposed elimination of the line from Brookmere to the international boundary.

The elimination of the laterals to Kamloops and Vancouver was objected to, however, and I will deal with these objections hereinafter.

COST OF CONSTRUCTION

The previous project involved an estimated cost of approximately $87,000,000. The estimated cost of the present project, to develop an initial capacity of 370 million cubic feet per day, is approximately $142,000,000, and by the expenditure of another $20,000,000 the capacity can be increased to approximately 660 million cubic feet.

The financing plan is much the same as for the former project. The plan is for sale of $105,000,000 of first mortgage sinking fund twenty year bonds; $20,000,000 twenty-five year 6 per cent subordinated debentures in units with common stock; 3,480,000 shares of common stock at $5.00 per share. The sources of the funds are the same as on the former project in all respects; the commercial bank and insurance companies are the same institutions; the managing underwriters are the same and the subscribers for common stock are also the same as they were on the previous application.

Representatives of Eastman Dillon and Company, of New York, Wood, Gundy and Company and Nesbitt, Thomson and Company stated that they had no doubt that the financing of this project is a great deal easier and more assured than it was when the Board approved the previous project in 1952.

TIME FOR COMPLETION

Counsel for the Government of British Columbia stated that the Province is extremely anxious to expedite the commencement and completion of the pipe line and he suggested that if the Board approves the application the Province would like to have the Board's order mention September 1st, 1955, as the date of commencement of construction and December 31st, 1956, as the possible date of completion.

Mr. McMahon, President of Wetscoast, gave evidence to the effect that a million dollars has been spent to date on actual work in the field, acquiring rights-of-way and doing surveying and other work and that current expenditures are at the rate of $300,000 a month, and he assured the Board that if and when the Federal Power Commission grants the authorizations there sought Westcoast will immediately work at full strength to complete construction as rapidly as possible. In fact, Westcoast is proceeding at the present time in the expectation that the project will be approved without lengthy delay. Arrangements have been made for procurement of the steel pipe and other major materials and if the laying of pipe is able to proceed in the fall of this year Westcoast is confident that gas will be available to the British Columbia markets by the end of next year. Under the circumstances we see no need to require the applicant to commence the construction of the line on or before September 1st, next.

The expenditures to date indicate the good faith of the company and we have no doubt that it will proceed to complete construction as rapidly as it can. However, it is not beyond the realm of possibility that unforeseen delays due to bad weather and other causes may delay completion and we consider that we should extend the time for completion as requested by the company to October 31st, 1957.

OBJECTIONS

The principal objections made at the hearing were to the elimination of the laterals to Vancouver and Kamloops. It was urged on behalf of a number of the communities along the location of the laterals that they would be in a more favourable position as to supply and price of gas if the laterals were to be constructed and operated by Westcoast than if they were to be constructed

and operated by British Columbia Electric and Inland. Westcoast and British Columbia Electric were confident that such would not be the case and that it would be less practicable for Westcoast to construct and operate these laterals. They stated that Westcoast's project is a transmission project, not a distribution system, and that investigation since 1952 has shown that it is undesirable to use Westcoast's transmission line as a distribution line. Westcoast also obviously feared that the arrangements it has made to get its gas into United States' markets, without which the whole project would fall, might be seriously and detrimentally affected by the delay and recasting of the project that would result should the objections to the elimination of the laterals be upheld by this Board.

The position of the Government of British Columbia was stated by its Counsel near the close of the hearing as follows: "Furthermore, while the Province regrets the variation proposed by the application and prefers the original situation, I am instructed to state that if the Board with the benefit of the study of the evidence submitted is of the opinion that such variation is essential to the early commencement and proper completion within the dates suggested, the Province would be prepared to accept such conclusions of the Board in this regard. I think it is very important as far as the Province is concerned that no delay take place in the pipe line project."

While the contracts that Westcoast has negotiated with British Columbia Electric and Inland are relevant considerations in the present application because they *inter alia* show a market and distribution systems willing and able to take Westcoast's gas, the granting of licences and certificates of convenience and necessity to these companies or other distribution systems in British Columbia is under the jurisdiction of the provincial authorities and not within our jurisdiction. Consequently the granting by this Board of leave to Westcoast to construct its pipe line as now proposed by the company does not necessarily mean that British Columbia Electric and Inland will thereby obtain a right to the exclusion of other parties willing to give similar service to distribute Westcoast's gas to the consuming public in the British Columbia localities concerned.

We have carefully considered the objections but it is our opinion that the public interest will be served by the project presently proposed by Westcoast at least as well as and probably better than it would be served by the project previously authorized by this Board or by the present project without the elimination of the laterals to Kamloops and Vancouver. We are therefore not disposed to refuse to Westcoast the changes it has applied for in the general location of its line, including the elimination of those laterals and the line from Brookmere to the international boundary.

GENERAL CONCLUSIONS

We are satisfied as to the financial responsibility of Westcoast, that an adequate supply of gas will be available to it for its project, and that the sales contracts, taken with other evidence as to market opportunities and conditions, establish that Westcoast will have markets that will absorb its gas in quantities that will meet the needs of the project.

The project presently proposed has, as we have indicated, a number of advantages over the former proposal. We are satisfied that the project is economically feasible and, having regard to all considerations that appear to us to be relevant, that it is in the public interest that the application be granted. In so doing we are not unmindful that the granting of the complementary applications of Pacific Northwest and El Paso before the Federal Power Commission is necessary to the fulfilment of the project as is also the granting of a licence to export the gas to the United States.

An order will issue rescinding Orders Nos. 79957 and 81285 and giving leave to Westcoast to construct the line as applied for, construction to be completed not later than October 31, 1957.

JOHN D. KEARNEY,
Chief Commissioner.

JUNE 6th, 1955.

I concur:

A. SYLVESTRE.
FRANK MACPHERSON.

ORDER No. 86329

In the matter of the application of Westcoast Transmission Company Limited, dated April 28, 1955, for an Order extending until October 31, 1957, the time for construction and completion of its proposed company pipe line for which leave to construct was granted by Order No. 79957, dated October 11, 1952, and granting leave to increase the diameter of the line to 30 inches and to make certain changes in the general location of the said line, including the elimination of the laterals to Kamloops and Vancouver, and the elimination of the pipe line from Brookmere to Osoyoos for which leave to construct was granted by Order No. 81285, dated May 2, 1953; the revised general location being shown on the map attached to the said application:

File No. 45371·3·5

MONDAY, the 6th day of June, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at sittings of the Board held in Ottawa on May 19th and 20th, 1955, in the presence of counsel for and representatives of Westcoast Transmission Company Limited, the Attorney General of British Columbia, British Columbia Electric Company Limited, Valley Natural Gas Distributors Limited, the Municipality of Chilliwack and certain Lower Mainland Municipalities of British Columbia—

It is ordered

1. That leave be, and it is hereby, granted to Westcoast Transmission Company Limited to construct a pipe line consisting of one or more lines of pipe, including a 30 inch diameter main line and gathering lines as applied for, for the transportation of natural gas from a point in the vicinity of the Pouce Coupe area in the Province of Alberta, through the interior of British Columbia, to a point on the international boundary in the vicinity of the Town of Huntingdon, in the Province of British Columbia; the general location of the pipe line being as shown on the Route Map dated April 15, 1955, filed with the Board under file No. 45371·3·5; the 30 inch O.D. main pipe line to be constructed and completed on or before the 31st day of October, 1957.

2. That Orders of the Board No. 79957, dated October 11, 1952, and Order No. 81285, dated May 2, 1953, be, and they are hereby, rescinded.

JOHN D. KEARNEY,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER No. 86356

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 71:

File No. 40994·55

WEDNESDAY, the 8th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 71, on file with the Board under file No. 40994·55, be, and it is hereby, approved; and that the date as from which the said Supplement No. 6 shall be deemed to have become operative is hereby fixed as April 27, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86364

In the matter of the application of the Canadian Freight Association, dated May 4th, 1955, for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 7:

File No. 40994·7

WEDNESDAY, the 8th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 7, on file with the Board under file No. 40994·7, be, and it is hereby approved; and that the date from which the said Supplement No. 5 shall be deemed to have become operative is hereby fixed as May 5th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86370

In the matter of the application of the Canadian Freight Association, dated May 4, 1955, for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 19:

File No. 40994·6

WEDNESDAY, the 8th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 19, on file with the Board under file No. 40994·6, be and it is hereby approved; and that the date from which the said Supplement No. 5 shall be deemed to have become operative is hereby fixed as May 5th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86372

In the matter of the application of the Canadian Freight Association, dated May 4th, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 10:

File No. 40994·10

WEDNESDAY, the 8th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 10, on file with the Board under file No. 40994·10, be, and it is hereby approved; and that the date from which the said Supplement No. 4 shall be deemed to have become operative is hereby fixed as May 5th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86374

In the matter of the application of the Canadian Freight Association, dated May 4th, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 8:

File No. 40994·8

WEDNESDAY, the 8th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 8, on file with the Board under file No. 40994·8, be, and it is hereby approved; and that the date from which the said Supplement No. 4 shall be deemed to have become operative is hereby fixed as May 5th, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86409

In the matter of the application of the Canadian Freight Association, dated May 11th, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 12:

File No. 40994·5

WEDNESDAY, the 15th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 12, on file with the Board under file No. 40994·5, be, and it is hereby approved; and that the date from which the said Supplement shall be deemed to have become operative is hereby fixed as the 12th day of May, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86453

In the matter of the application of Winnipeg Cold Storage Co. Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69 as approved by the Board:

File No. 40994·63

MONDAY, the 20th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Winnipeg Cold Storage Co. Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its butter, carloads, from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 69, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 69 for the transport, by the railway companies parties thereto, of butter, (carloads), as described in paragraph B of the said Agreed Charge, shipped by Winnipeg Cold Storage Co. Limited, from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, MAY, 1955

Railway Accidents	186	Killed	22	Injured	190
Level Crossing Accidents....	23	Killed	9	Injured	40
Total.....	209		31		230

	Killed	*Injured*
Passengers	—	63
Employees	7	132
Others	24	35
Total.....	31	230

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEWFOUNDLAND
—	4	Auto truck struck by track motor car. Licence: Nfld. C-14168.
		NOVA SCOTIA
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. 27-793.
		QUEBEC
—	2	Pedestrians walked onto crossing in front of approaching train and were struck.
—	2	Bicycle carrying two riders struck by train.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 115-831.
—	1	Automobile ran into side of train. Licence: Que. T-17302.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 232-528.
		ONTARIO
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 375-246.
2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 932-266.
2	—	Automobile ran into side of train. Licence: Ont. 669-155.
—	1	Automobile ran into side of train. Licence: Mich. EC-9927.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence. Ont. 20-291-C.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 24083-C.
—	1	Bicycle ran into side of train.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	12	Auto truck drove onto crossing in front of approaching train and was struck. Ont. 45-041-A.
—	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 56-510-C.
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-39-350.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 532-959.
		SASKATCHEWAN
—	1	Automobile struck by track motor car. Licence: Sask. 51-811.
		ALBERTA
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-10-817.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. VR-663.
		BRITISH COLUMBIA
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 181-670.

Of the 23 accidents at highway crossings, 16 occurred at unprotected crossings, and 7 at protected crossings. 15 occurred after sunrise and 8 after sunset.

OTTAWA, Ontario, June 29, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86304 May 30—In the matter of the application of the C.N.R. on behalf of the Canadian Gulf Oil Company for a temporary permit to load crude oil into tank cars from tank trucks at Minard, Saskatchewan.

86305 May 30—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 54.

86306 May 27—In the matter of the application of the Montreal and Southern Counties Railway Company for an Order authorizing it to abandon the operation of its line of railway, including the operation of the trains it operates on lines of the C.N.R. as shown on the map attached to the application.

86307 May 30—Permitting the removal of slow order at C.P.R. crossing of the highway at mileage 1·43 Belleville Subdivision in the Town of Smiths Falls, Ontario.

86308 May 31—Approving under the Maritime Freight Rates Act tariffs and supplements to tariffs filed under section 3.

86309 May 31—Authorizing the City of Montreal to widen O'Brien Boulevard where it crosses the C.N.R. near Monklands Station, Montreal, Quebec.

86310 May 31—Approving operation of C.P.R. trains over the industrial tracks in the Municipality of St. James, Manitoba.

86311 May 31—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 70.

86312 May 31—Authorizing the British Columbia Toll Highways & Bridges Authority to construct an overhead bridge over the C.N.R. at mileage 0·97 Tucks Branch, Lulu Island, British Columbia.

86313 May 31—In the matter of the application of the Canadian Freight Association for approval of an agreed charge, dated April 19th, 1955. (Silicate of Soda).

86314 May 31—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated April 20, 1955. (iron or steel skelp).

86315 May 31—In the matter of the application of Canada Steamship Lines Limited for a licence under section 10 of the Transport Act.

86316 June 1—Authorizing the C.N.R. to replace the mechanical interlocker at the crossing of their railway and the railway of the C.P.R. at Regina, Saskatchewan.

86317 June 1—In the matter of the complaint of the Jeune Commerce Inc. of Nicolet, Quebec, with respect to the proposed discontinuance of service of certain C.N.R. trains between Montreal and Nicolet, Que.

86318 June 1—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86319 June 1—Authorizing the Toronto Harbour Commissioners to construct a siding to serve the Canada and Dominion Sugar Company Limited along and across Queen's Quay East, Toronto, Ontario.

86320 June 1—Approving the proposed location of storage tanks, etc. of North Star Oil Limited near C.P.R. tracks at Gull Lake, Saskatchewan.

86321 June 1—Authorizing the Ontario Department of Highways to construct Highway No. 11 across the C.N.R. in the Township of Orillia, Ontario.

86322 June 2—Authorizing the C.N.R. to use the bridge over the Rouge River in the Province of Quebec at mileage 12·9 Sorel Subdivision.

86323 June 2—Authorizing the Quebec North Shore and Labrador Railway Company to carry traffic over its line of railway from Seven Islands, Quebec. to Schefferville, Quebec.

86324 June 2—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking near Matsqui, British Columbia.

86325 June 2—Authorizing the Corporation of the Village of Val Barrette, Quebec, to construct at its own expense, the highway across the C.P.R. at mileage 130·1 Ste. Agathe Subdivision, Quebec.

86326 June 2—In the matter of the application of the Pacific Great Eastern Railway Company for authority to construct a railway bridge over the C.N.R. at mileage 143·834 Fraser Subdivision, British Columbia.

86327 June 2—Authorizing the Town of Wynyard, Saskatchewan, to construct at its own expense a sewer under the C.P.R. at mileage 113·15 Wynyard Subdivision.

86328 June 2—Authorizing the C.P.R. to replace the timber trestle at mileage 31·9 Vanguard Subdivision, Saskatchewan, with a new culvert.

86329 June 6—Authorizing the Westcoast Transmission Company Limited to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Pouce Coupe area, Alberta, through the interior of British Columbia, to a point on the international boundary in the vicinity of the Town of Huntingdon, British Columbia.

86330 June 3—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Ste. Perpetue, Quebec.

86331 June 3—Dismissing application of the C.N.R. for authority to remove the station agent and appoint a caretaker at St. Cyrille, Quebec.

86332 June 3—Permitting the removal of slow order at C.P.R. crossing known as St. Charles Road Crossing at Beaconsfield, Quebec.

86333 June 3—Authorizing the C.N.R. to remove the station agent at Cann, Quebec.

86334 June 3—Approving revised Appendix "A" to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Gentilly.

86335 June 3—In the matter of the accident on March 29, 1955, at the crossing of the highway and the C.N.R. east of the station at Proulxville, Quebec.

86336 June 3—In the matter of the application of the C.P.R. on behalf of Socony-Vacuum Oil Compay for temporary permit to load crude oil into tank cars from tank trucks at Cecil, Alberta.

86337 June 3—Authorizing the County of Elgin, Province of Ontario, to widen highway where it crosses the New York Central Railroad Company on County Road No. 4 at mileage 147·33 Canada Division, Ontario.

86338 June 3—In the matter of the application of the City of Moncton, New Brunswick, for authority to construct Beaverbrook Street across the C.N.R., etc.

86339 June 6—Authorizing the Manitoba Department of Public Works to widen the highway where it crosses the C.N.R. at mileage 0·76 Ridgeville Subdivision, Manitoba.

86340 June 6—In the matter of the application of the Yellowknife Transportation Company for a licence under section 10 of the Transport Act.

86341 June 6—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Dominion Atlantic Railway Company under section 8.

86342 June 6—Permitting the removal of slow order at C.P.R. crossing of North Queen Street, Dixie, Ontario.

86343 June 7—Authorizing the Newfoundland Department of Public Works to construct the highway across the C.N.R. at mileage 487·47 Port-aux-Basques Subdivision, Newfoundland.

86344 June 7—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway at mileage 51·73, Cascapedia Subdivision, Quebec.

86345 June 7—Approving operation of C.P.R. trains over siding serving Interprovincial Cold Storages Limited, Lethbridge, Alberta.

86346 June 7—Authorizing the Imperial Oil Limited to construct an oil pipe line under the pipe line of the Trans Mountain Oil Pipe Line Company's Burnaby Tank Farm, British Columbia.

86347 June 7—Authorizing the C.P.R. to make signal changes between Yale and Ruby Creek, British Columbia.

86348 June 7—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86349 June 7—Authorizing the C.N.R. to use the bridge over the arm of the North Thompson River, British Columbia.

86350 June 7—Authorizing the New York Central Railroad Company to discontinue services and facilities and to remove the station building at the following stations: Ramsayville, Piperville, Pana, Cambridge, Northfield, Harrison and Black River, Ontario.

86351 June 7—Approving proposed location of storage tanks, etc. of North Star Oil Limited near C.N.R. tracks at Hoey, Saskatchewan.

86352 June 7—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Somme, Saskatchewan.

86353 June 8—Requiring the Quebec Department of Roads to install automatic protection at mileage 36·31 Maniwaki Subdivision.

86354 June 8—Authorizing the C.N.R. to abandon operation of a portion of the Cowichan Subdivision, British Columbia.

86355 June 8—Approving proposed location of storage tanks, etc. of the C.N.R., near their tracks at Bridgewater, Nova Scotia.

86356 June 8—Approving Supplement to Agreed Charge C.T.C. (AC) No. 71, upon application of the Canadian Freight Association.

86357 June 8—Dismissing the application of the C.N.R. for authority to remove the agent at Alonsa, Manitoba.

86358 June 8—Permitting the removal of slow order at C.N.R. crossing of McIvor Road, mileage 100·5 Yale Subdivision, British Columbia.

86359 June 8—Authorizing the C.P.R. to use the bridge over the Okanagan River at mileage 0·5 Princeton Subdivision, British Columbia.

86360 June 8—Authorizing the C.N.R. to close the crossing of their railway and the highway on the road allowance in the Northeast quarter of Section 20-35-12-W3M, at Normanton, Saskatchewan.

86361 June 8—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.P.R. under section 8.

86362 June 8—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86363 June 8—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86364 June 8—In the matter of the application of the Canadian Freight Association, dated May 4, 1955, for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 7.

86365 June 8—Approving proposed location of connecting pipe lines, etc. near the C.N.R. tracks at Windsor, Ontario.

86366 June 8—Authorizing the C.N.R. to use the extension to the South Plaza at their Central Station, Montreal Quebec.

86367 June 8—Requiring the C.P.R. to install certain protection at the crossing of its railway and County Road No. 1, in the Township of Pickering, Ontario.

86368 June 8—Authorizing the C.N.R. to make certain changes in the signal protection at the interlocker at the crossing of their railway and the railway of the C.P.R. at Port Arthur, Ontario.

86369 June 8—Requiring the C.N.R. to install certain protection at the crossing of their railway and the intersection of McDonnel Street and Bethune Street, Peterborough, Ontario.

86370 June 8—In the matter of the application of the Canadian Freight Association, dated May 4, 1955, for approval of Supplement No. 5 to Agreed Charge C.T.C. (AC) No. 19.

86371 June 8—Authorizing the C.N.R. to construct a spur to serve Delrex Developments Limited across Maple Avenue, in the Town of Georgetown, Ontario.

86372 June 8—In the matter of the application of the Canadian Freight Association, dated May 4, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 10.

86373 June 8—Authorizing the C.P.R. to install certain protection at the crossing of its railway and Alexander Street, Sherbrooke, Quebec.

86374 June 8—In the matter of the application of the Canadian Freight Association, dated May 4, 1955, for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 8.

86375 June 8—In the matter of the approval of plan submitted by the C.N.R. showing the proposed location of storage tank, etc. at Richmond, Que.

86376 June 8—In the matter of the approval of plan submitted to the C.N.R. by the Shell Oil Company of Canada, Limited, showing the proposed location of tanks, etc. at St. Lambert, Quebec.

86377 June 9—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under section 8.

86378 June 9—In the matter of the application of the Canadian Pacific Railway Company for an Order amending Order No. 79472 which authorized the Department of Highways of the Province of Alberta to reconstruct the overhead bridge at mileage 2·8 Crowsnest Subdivision, Alberta, where the railway of the C.P.R. crosses Highway No. 3.

86379 June 9—Authorizing The California Standard Company to construct its pipe line under the tracks of the C.P.R. at mileage 4·38 Neudorf Subdivision, Manitoba.

86380 June 9—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Village of Coldwater, Ontario.

86381 June 9—Approving Supplements to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Moore.

86382 June 9—Permitting the removal of slow order at C.N.R. crossing of Winnipeg Street industrial lead and Fourth Avenue, Regina, Saskatchewan.

86383 June 9—Authorizing the C.N.R. to construct a spur along and across the lane in Block 31, in the City of Saskatoon, Saskatchewan, to serve Trans-Canada Freezers, Limited.

86384 June 9—In the matter of the accident on April 30, 1955, at the crossing of the highway and the railway of the C.P.R., east of the station at Cranbrook, British Columbia.

86385 June 9—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Township of Bentinck Municipal Telephone System.

86386 June 9—Dismissing the application of the C.N.R for authority to remove the station agent at Calder, Saskatchewan.

86387 June 10—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 17, west of the station at Glasgow, Ontario.

86388 June 10—Permitting the removal of slow order at C.P.R. crossing at mileage 1·78 Cartier Subdivision, in the City of North Bay, Ontario.

86389 June 10—In the matter of the application of the C.P.R. for approval of the restricted clearances at the siding serving the Manchester Paper Boxes Limited, Toronto, Ontario.

86390 June 10—Approving proposed location of storage tanks, etc. of Shell Oil Company of Canada, Limited, near the C.P.R. tracks at Dorval, Quebec.

86391 June 10—Authorizing the C.P.R. to construct a switching lead across Mountain Avenue in the City of Fort William, Ontario.

86392 June 10—In the matter of the application of the C.N.R. for approval of plan showing the automatic signals as installed between Dauphin and North Junction, Manitoba.

86393 June 10—In the matter of Order No. 19658 which authorized the City of Edmonton to construct a highway across the Canadian Northern Railway for the purpose of extending Shand Avenue across the said railway and in the matter of the application of the City of Edmonton, Alberta, for an Order rescinding Orders Nos. 19658 and 23767.

86394 June 13—Authorizing the C.P.R. to construct its Harrowby ballast pit spur at mileage 88·81 Bredenbury Subdivision, Manitoba, across certain highways.

86395 June 13—Approving proposed location of storage tanks, etc. of C.N.R., near their tracks at Dartmouth, Nova Scotia.

86396 June 13—Permitting the removal of slow order at C.P.R. crossing east of the station at Calumet, Quebec.

86397 June 13—Requiring the C.N.R. to install certain protection at the crossing of their railway and Station Street, in the City of Giffard, Quebec.

86398 June 13—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Corporation de Téléphone de Québec.

86399 June 13—In the matter of approval of plan submitted to the C.P.R. by Bibby Brothers, showing the proposed location of storage tank, etc., at Vernon, British Columbia.

86400 June 14—In the matter of the application of Swift Canadian Company Limited for a ruling as to the proper classification rating applicable in Canada on canned dog feed which is manufactured under the trade name "Pard".

86401 June 15—In the matter of approval of plan submitted to the C.N.R. by the Champlain Oil Products Limited, showing proposed location of storage tanks, etc. at Valleyfield, Quebec.

86402 June 15—In the matter of the application of the C.P.R. authorizing it to operate within Spiral Tunnel No. 2, mileage 131·3 Laggan Subdivision, during the reconstruction at less than standard clearances.

86403 June 15—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86404 June 15—Authorizing the C.N.R. to use the trestle at mileage 45·1 Okanagan Subdivision, British Columbia.

86405 June 15—Permitting the removal of slow order at C.P.R. crossing east of the Town of Virden, Manitoba.

86406 June 15—Authorizing the C.N.R. to reconstruct the bridge over the Nashwakk River, New Brunswick.

86407 June 15—Authorizing the C.N.R. to reconstruct the bridge across the creek at mileage 23·9 Cowichan Subdivision, British Columbia.

86408 June 15—Authorizing the City of Vancouver to construct Jellicoe Street across the Vancouver and Lulu Island Railway in the City of Vancouver, British Columbia.

86409 June 15—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 12.

86410 June 15—Approving operation of C.P.R. trains over private siding in the City of St. Thomas, Ontario.

86411 June 15—Approving Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone Guevremont.

86412 June 15—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Le Système de Téléphone Larocque.

86413 June 15—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Gervais Telephone System.

86414 June 15—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Thessalon Subdivision, Ontario.

86415 June 16—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Andrew, Alberta.

86416 June 16—Approving proposed location of storage tanks, etc. of the Landis Co-Operative Association Limited, near C.N.R. tracks at Landis, Saskatchewan.

86417 June 16—Approving proposed location of storage tanks, etc. of the Polo Park Garage Limited, near C.N.R. tracks at St. James, Manitoba.

86418 June 16—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Mankota, Saskatchewan.

86419 June 16—In the matter of the application of the Ontario Department of Highways for an Order amending Order No. 55398, which authorized the construction of the highway across the C.P.R. near Red Rock, Ontario.

86420 June 16—Authorizing the C.N.R. to remove the station agent at Valora, Ontario.

86421 June 16—Approving operation of Great Northern Railway Company trains over private siding serving the City of Vancouver, British Columbia.

86422 June 16—Authorizing the C.N.R. to construct a spur to serve Calgary Power Limited at Wabamun, Alberta.

86423 June 16—Authorizing the British Columbia Toll Highways & Bridges Authority to construct its highway across the C.P.R. by means of an overhead bridge in the Town of Nelson, British Columbia.

86424 June 16—In the matter of the application of the C.N.R. for authority to remove the bell at the crossing of their railway and the highway at mileage 88·9 Harte Subdivision, Manitoba.

86425 June 16—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Medstead, Saskatchewan.

86426 June 16—Dismissing application of the C.N.R. for authority to remove the caretaker at Eldorado, Ontario.

86427 June 16—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at Capreol, Ontario.

86428 June 16—Dismissing application of the C.N.R. for authority to replace the agent at St. Adelphe, Quebec.

86429 June 16—In the matter of the application of the C.P.R. to operate over the alterations and additions to its wharf located within a portion of Vancouver Harbour, Burrard Inlet, Province of British Columbia.

86430 June 16—Authorizing the C.P.R. to operate over the alterations and additions to its wharf in Nanaimo Harbour, Nanaimo, British Columbia.

86431 June 17—Approving First Revised Appendix "A" between The Bell Telephone Company of Canada and the Minister of Transport for Canada.

86432 June 17—Approving operation of the C.P.R. trains over two private sidings serving Riverlake Oils Division of Husky Oil and Refining. Limited at Island No. 1, Fort William, Ontario.

86433 June 17—Approving plans showing revised line of railway from mileage 0 to mileage 39·82 of the Manitouwadge Lake Branch line of the C.P.R.

86434 June 17—Authorizing the C.P.R. to construct an extension of its yard lead track across Prairie Street, Minnedosa, Manitoba.

86435 June 17—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Hay Lakes, Alberta.

86436 June 17—Permitting the removal of slow order at Wilson Avenue crossing of the C.N.R., north of Downsview, Ontario.

86437 June 17—Authorizing the C.N.R. to construct a branch line of railway in the City of Calgary, Alberta, to serve the Highfield Industrial Area.

86438 June 17—Permitting the removal of slow order at King Street crossing of the C.P.R., in the Town of Sturgeon Falls, Ontario.

86439 June 17—Authorizing the C.N.R. to reconstruct the bridge across Otter Creek, British Columbia.

86440 June 17—Authorizing the Town of Wapella, Saskatchewan, to construct and maintain First Avenue across the C.P.R.

86441 June 17—In the matter of the application of the C.P.R. for authority to operate Shogomoc Subdivision between mileages 84·85 and 87·20 in the Parish of Kent, County of Carleton, New Brunswick.

86442 June 17—Authorizing the City of Calgary, Alberta, to construct a cast-iron sewer pipe under the tracks of the C.P.R. at 15th Street East, Calgary, Alberta.

86443 June 20—Permitting the removal of slow order at C.P.R. crossing west of Romford, Ontario.

86444 June 20—Permitting the removal of slow order at C.P.R. crossing in the Town of Pointe Claire, Quebec.

86445 June 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Wadena, Saskatchewan.

86446 June 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Emo, Ontario.

86447 June 20—In the matter of the application of the Township of North York, Ontario, for the installation of automatic protection at the crossing of Lawrence Avenue East and the C.N.R.

86448 June 20—Permitting the removal of slow order at C.P.R. crossing north of Medonte, Ontario.

86449 June 20—Approving operation of C.P.R. trains over private siding serving F. Ludger Beaudry, in the City of Sherbrooke, Quebec.

86450 June 20—Authorizing the City of Calgary, Alberta, to lay a cast-iron sewer pipe under the C.P.R. at 15th Street East, Calgary, Alberta.

86451 June 20—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.P.R. under section 8.

86452 June 20—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86453 June 20—In the matter of the application of Winnipeg Cold Storage Company Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 69. (butter, carloads).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, AUGUST 1, 1955 No. 9

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Authorized as Second Class Mail, Post Office Department, Ottawa.

Application of Swift Canadian Company, Limited, Re Classification Rating to apply on "Pard" Canned Dog Feed.

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File No. 33365·162

HEARD at Ottawa April 19th, 1955.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Appearances:

J. E. HARRIS, for Swift Canadian Company Limited.

K. D. M. SPENCE, Q.C., for Canadian Freight Association, and Canadian Pacific Railway Company.

J. W. G. MACDOUGALL, for Canadian Freight Association, and Canadian National Railways.

R. E. MORROW, for Canada Steamship Lines Limited.

JUDGMENT

MACPHERSON, Commissioner:

The applicant, Swift Canadian Company Limited, seeks an interpretation of the Canadian Freight Classification in so far as it concerns the proper classification of canned dog feed, manufactured and sold by the applicant under the trade name "Pard".

The provisions of the Classification involved, both as to former Classification No. 19 and present Classification No. 20, are as follows:

(1) Classification No. 19. Page 103, items 33 and 48.
Classification No. 20. Items 12810 and 12960.

"FEED, ANIMAL OR POULTRY:
Meat or Fish, with or without cereal or vegetable ingredient, in hermetically sealed cans in barrels or boxes."
. . . .

(2) Classification No. 19. Page 104, items 5 and 7.
Classification No. 20. Items 12810, 12885 and 12895.

"FEED, ANIMAL OR POULTRY:
Feed, Animal or Poultry, Prepared, N.O.I.B.N.: Other than Condimental or Medicinal, in fibre or metal cans or cartons in barrels or boxes, in bulk in cloth bags, in bulk in multiple-wall paper bags, or in bulk in barrels, boxes or pails"
. . . .

It is to be understood that the descriptions above stated are those contained in Classification No. 19. Classification No. 20 is varied only to the extent of slightly modifying the packing requirements when shipped in bulk in bags. The difference is of no consequence in the instant case.

At the time the application was made Classification No. 19 was in effect but has been superseded, effective March 1st, 1955 by Classification No. 20. The interpretation we are asked to make thus concerns both past and future shipments, but does not involve any question of reasonableness of the ratings thus provided.

The ratings applicable to the quoted provisions (1) were 3rd Class L.C.L., and 5th Class C.L., in Classification No. 19 and are Class 70 L.C.L. and Classes 45 (min. wgt. 24,000 lbs.) and 40 (min. wgt. 30,000 lbs.) C.L., in Classification No. 20.

With respect to the provisions in (2) the ratings in Classification No. 19 were 4th Class L.C.L., and 8th Class C.L. In Classification No. 20 the ratings are Classes 55 and 30 respectively.

It may be noted that former classes 3, 4, 5, 6 and 8 are now expressed in the new Classification as 70, 55, 45, 40 and 30.

The applicant is in disagreement with the respondents that the provisions of the Classification quoted as (1) above are applicable. Its case may be summarized as follows:

Pard is a product consisting of ingredients having the following percentage content of the whole:

Meat	2.33 per cent
Meat By-Products:	
(a) Edible	5.26 per cent
(b) Inedible	16.83 per cent
Cereal	17.00 per cent
Miscellaneous	2.08 per cent
Added water	56.50 per cent
	100.00 per cent

Due to the small percentage of meat (2.33%) it is contended that the product does not properly come within the description "Meat . . . with or without cereal or vegetable ingredient"; that to come within such classification provision the meat content must exceed 50 per cent; and that such contention is predicated upon a decision of the Interstate Commerce Commission in, "Classification ratings on feed, animal or poultry", 174 ICC 450 wherein it was stated:

> "Limited to those canned dog foods of which more than 50 per cent of the net weight, excluding water, consists of meat, we are of the opinion that the principle of the Peck Stow & Wilcox case is applicable, and the effective ratings are either those provided for canned meat with vegetable ingredients or those provided for prepared animal feed, whichever are lower. However, as to those products which contain a smaller percentage of meat, we think the ratings for prepared animal feed alone are applicable, as it seems obvious that where meat is not the preponderating component, the food can not accurately be described as meat with vegetable ingredients. It is to be noted that the suspended schedules likewise relate only to meat with or without vegetable ingredients, and hence, if permitted to become effective, would affect only those canned dog foods of which the chief ingredient is meat."

Witnesses for the applicant gave evidence as to the manufacture of Pard and as to the interpretation of what constitutes "meat". The evidence as to manufacture was to the effect that the following ingredients comprise those for which percentages are stated above:

Meat: Comprises the gullet of slaughtered animals and is considered to be edible meat.

Meat By-Products:

(a) Edible. Consists of tallow and blood.

(b) Inedible. Consists of lungs, spleens, bone meal.

Cereal. Consists of Soya Bean Meal, Wheat or Barley.

Miscellaneous: Comprises fish liver oil, irradiated yeast and added essential vitamins.

Water. Is added to make the mixture palatable.

The total moisture content of the product was stated by this witness to be approximately seventy per cent.

Expert testimony by a Veterinarian of the Canada Department of Agriculture was to the effect that edible meat is a well defined product of various parts of slaughtered animals which are by inspection deemed fit for human consumption. Edible meat which is processed in the inedible part of the packing plant is not considered "edible" for human consumption.

The witness under whose charge Pard is produced stated that Pard is a dog food and could not be called "canned meat". Notwithstanding such testimony the respondents introduced exhibits and evidence to show that Pard has been shipped as "canned meat" without qualification.

The applicant relies chiefly upon the evidence above summarized and dictionary and "Food and Drug Act" definitions of meat: also that while meat by-products are contained in the product the classification provisions do not include such ingredients with the result, it is contended, that meat by-products are not entitled to be considered as "meat".

Traffic Manager Paul for the applicant gave evidence as to the method of shipment and expressed the opinion that any shipments of Pard described as

"canned meat" was the result of incorrect billing by older staff; that it was the applicant's contention that the product was properly described as "Prepared Animal Feed, N.O.I.B.N., other than Condimental or Medicinal"; and that such description had been adopted in the year 1950 after becoming aware of the ruling made by the Interstate Commerce Commission, *supra.*

The respondents position may be summarized as being to the effect that the provisions of the Classifications cited previously herein as (1) were specifically provided to cover all kinds of animal feed in hermetically sealed cans; that in 1932 when the present ratings were established they were opposed by the applicant on substantially the same grounds as in the instant case; and that the Board, after hearing, had ruled by its Judgment, 22 JOR & R 92, the ratings were reasonable and rejected the objections then made.

The 1932 case specifically dealt with a product of the applicant described as "Silver Fur Food" which respondents consider was similar to that now produced and sold as Pard. Attempts by Counsel for the respondents to elicit information from the applicant as to the relative formulae failed to develop any substantial difference. In the main the witnesses for the applicant denied any knowledge of the Silver Fur Food formula as it was in production before their employment with the applicant and that it is no longer produced.

Counsel for the respondents moved that the case be dismissed on the grounds that the applicant had failed to show dissimilarity of the two products or that unreasonableness existed. Upon consideration of the motion it was ruled:

> "THE ASSISTANT CHIEF: Gentlemen, in the recess we have given some thought to the motion for dismissal put forward by the respondents. While we feel there is some merit in the motion we have decided that the case shall proceed so that we may have the benefit of all the evidence and argument. We are not prepared now to say whether or not the 1932 case is to be sustained, as we are particularly interested in hearing the applicant's argument as to why item 48, page 103 should not apply to his product when it is apparent that such product contains both meat and cereals, both of which are specified in the classification item in question. So will you proceed." (Transcript, pp. 1840-1)

All of the evidence and argument has been carefully studied; any absence of comment thereon is no indication of any failure to give full weight thereto. The Transcript consists of approximately 128 pages, and 12 exhibits were filed.

DISCUSSION AND CONCLUSIONS:

From what has been put before us it appears that the applicant's position is:

a. that "Pard" is not a product entitled to be classified as an animal feed consisting of "Meat . . . , with or without cereal or vegetable ingredient", because
b. the meat content is less than fifty per cent of the total contents of the can:
c. that "meat by-products" as included in the product are not "meat" and are not included in the description set out in the Classification.

Its position in respect of the meat percentage is predicated upon the decision of the Interstate Commerce Commission, *supra,* in which that body in dealing with conflicting Classification provisions, as then obtaining appears to have so defined the meat percentage. Upon review of the said Commission's decision it is not altogether clear therefrom that in referring to "meat" it was to the exclusion of what the applicant terms "meat by-products". At page 451

of the decision, in referring to the consist of canned dog food I note that the following is stated: "Horse meat is used in most of them, but some contain beef or beef products."

It appears to me that in considering whether we shall adopt the rule set out by the said Commission we must first decide whether the term "meat" in the Classification here assailed includes or excludes "meat by-products", and the relative percentages of solid matter in the can of feed. It is to be remembered that the ruling specifies that the meat percentage is after excluding the water.

By excluding the 56·5 per cent water as shown previously herein, the Pard contents would bear the following percentages of solid matter:

Meat	5.36 per cent
Meat By-Products:	
(a) Edible	12.09 per cent
(b) Inedible	38.69 per cent
Cereal	39.08 per cent
Miscellaneous	4.78 per cent
	100.00 per cent

On this basis the meat by-products constitute 50·78 per cent, and if the meat content is added, the total meat and meat by-product content is 56·14 per cent.

We are not competent to say that the Interstate Commerce Commission ruling, as relied upon by the applicant, intends that the word "meat" is exclusive of meat by-products. On the other hand the applicant has chosen to adopt as its interpretation of the decision that only "meat" was intended, and by its evidence would limit such meat to that which is suitable only for human consumption.

The applicant has cited to us several previous decisions of ours wherein we have adopted decisions of the Interstate Commerce Commission, and thereby seeks that we do so in the present instance. With the doubt in our minds as to the validity of the applicant's interpretation thereof we have decided that we cannot so adopt the rule therein laid down.

We are also not prepared here to say that to be properly classified as a meat animal food the meat content must exceed 50 per cent of the contents excluding water. The Classification provision here involved does not specify any percentage of meat, consequently if the product contains any meat and has or has not the added content of cereal or vegetable ingredient as is specified in the item, we are of the opinion that it is the proper provision to apply.

While we are of the opinion that the word "meat" is inclusive of "meat by-products", it is abundantly clear that Pard does contain a mixture of meat, cereal and other products.

In so far as animal feed is concerned we consider that Tallow; Blood; Lungs; Spleen and Bone meal, which the applicant classes as "meat by-products" are capable of being considered "meat" within the meaning of the provisions of the Classification involved.

In view of what is stated above it is unnecessary to specifically deal with the submissions of the respondents.

An Order will issue finding that during the period in which Classification No. 19 was in effect, the applicable provisions thereof to Pard and other brands of animal feed in hermetically sealed cans were as per item 48, page 103 of Canadian Freight Classification No. 19; and that the applicable provisions in Canadian Freight Classification No. 20 are as per item number 12960.

The applicant has asserted that this application would not have arisen if the Classification properly described the goods involved. If there is any lack of adequate description it behooves the respondents to review the same and make such amendments as will clarify the matter for the future.

FRANK M. MacPHERSON.

OTTAWA, June 10, 1955.

I concur:

HUGH WARDROPE.

ORDER No. 86400

In the matter of the application of Swift Canadian Company Limited for a ruling as to the proper classification rating applicable in Canada on canned dog feed which is manufactured under the trade name "Pard":

File No. 33365·162

TUESDAY, the 14th day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Ottawa, Province of Ontario, on April 19, 1955, in the presence of Counsel for Swift Canadian Company Limited, Canadian Freight Association, Canadian Pacific Railway Company, Canadian National Railways and Canada Steamship Lines Limited—

The Board finds that during the period in which Classification No. 19 was in effect, the applicable provisions thereof to Pard and other brands of animal feed in hermetically sealed cans were as per item 48, page 103 of Canadian Freight Classification No. 19; and that the applicable provisions in Canadian Freight Classification No. 20 are as per item number 12960.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 811

In the matter of specifications for highway crossing signals of the flashing light type:

File No. 27214.20

TUESDAY, the 15th day of March, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that, until further notice, signals of the flashing light type, used for the protection of highway traffic at a highway-railway level crossing shall conform to the following requirements:

1. In any case where the Board orders a highway crossing signal to be installed, a plan showing the layout must be filed for the approval of an Engineer of the Board.

2. A signal of the flashing light type shall be placed on each side of the tracks, and preferably to the right of approaching highway traffic and each signal shall have not less than four electric light units.

(*a*) The assembly of apparatus shall conform to Board's drawing entitled "Highway Grade Crossing Signals of the Flashing Light Type dated Feb. 15, 1955".

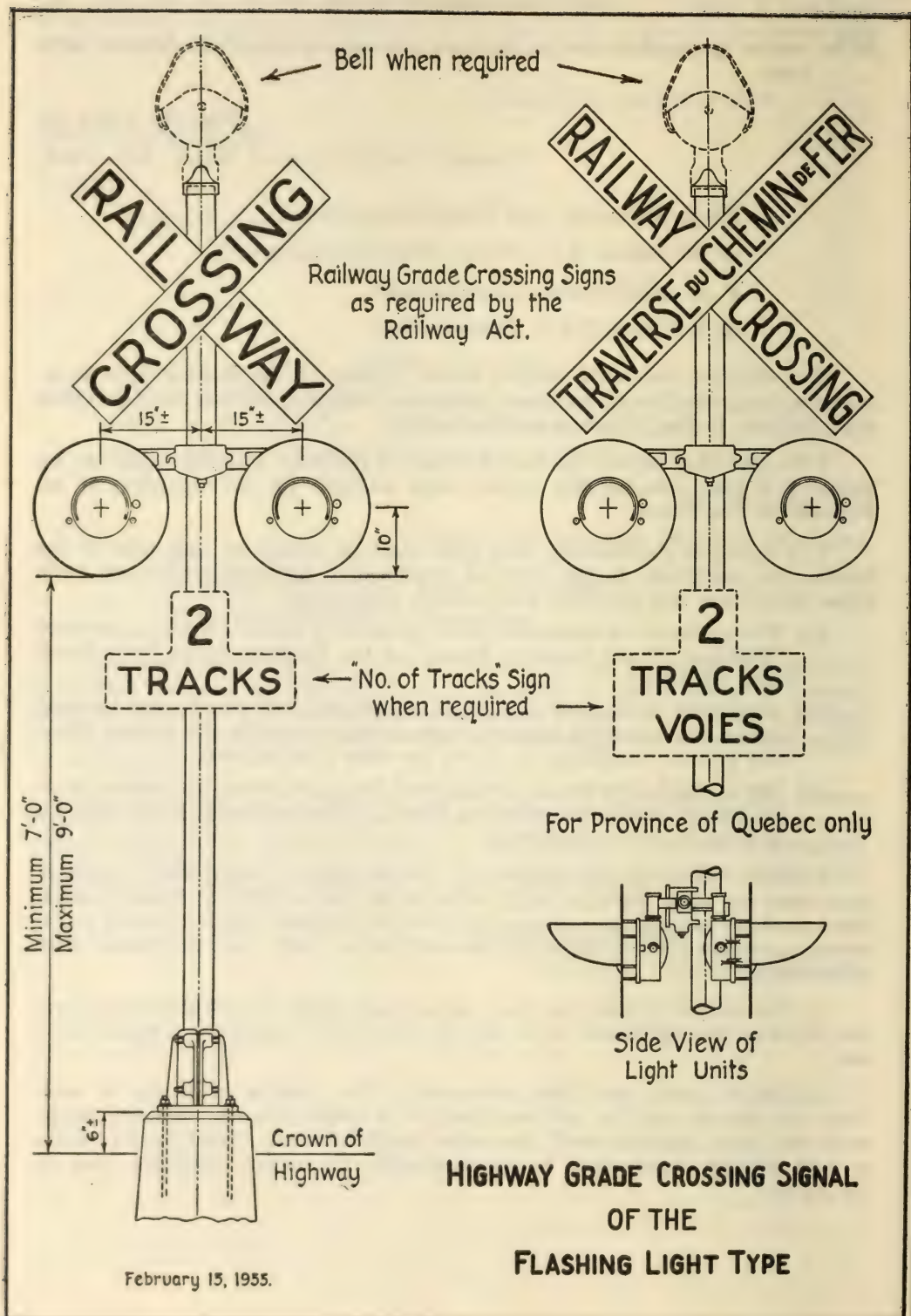
(*b*) Cantilever or bracket signal support, or left-hand signal, may be used where the standard assembly cannot be located in the proper place due to local conditions, or where the view is obstructed.

(*c*) Parts which function as background for light signal indications shall be painted with non-reflecting black. All other metal parts shall be painted white or aluminum.

3. Signs indicating the number of tracks shall be used where there is more than one track; the signs shall indicate the total number of tracks crossed. Signs shall be painted the same as required for highway grade crossing signs, except numerals shall be five and one-half inches high, and the letters four inches high.

4. Two electric lights from each signal shall shine in each direction along the highway and additional units may be required if conditions require their use.

5. Electric lamps shall flash alternately. The number of flashes of each lamp per minute shall be not less than 30 or more than 45. Electric lamps shall each burn approximately the same length of time. Total burning time of both electric lamps shall be approximately the entire operating time of the signal.


Bell when required
RAIL WAY CROSSING
RAILWAY TRAVERSE DU CHEMIN DE FER CROSSING
Railway Grade Crossing Signs as required by the Railway Act.
15"±
15"±
10"
2
TRACKS
"No. of Tracks" Sign when required
2
TRACKS
VOIES
For Province of Quebec only
Minimum 7'-0"
Maximum 9'-0"
6"±
Crown of Highway
Side View of Light Units
HIGHWAY GRADE CROSSING SIGNAL OF THE FLASHING LIGHT TYPE
February 15, 1955.

6. Electric light units used shall conform to the A.A.R. Signal Section specification 190 or the equivalent. The proper roundel within this specification shall be used as determined by local conditions.

7. Bell where required shall form part of the signal and shall be designed, as far as practicable, as to ensure proper operation during unfavourable weather conditions. Size and range of bell shall be determined by local conditions.

8. (*a*) Signals indicating the approach of a train shall operate for such period of time before the arrival of any train operated over the crossing as is reasonably required to protect highway traffic.

(*b*) Where the distance from the most remote signal to the clearance of the farthest track on which trains operate at medium or higher speed, as measured parallel to the centre line of the highway, is 35 feet or less, the signals shall operate for not less than twenty seconds before the arrival of any train on such track. Where the distance is more than 35 feet, the minimum time shall be increased by one second for each additional ten feet.

9. For trains in either direction on main tracks over which trains normally operate in either direction, and for trains moving with the current of traffic on main tracks over which trains normally operate in one direction only, signals shall operate until the rear of the train clears the crossing.

10. Where train speeds on a given track vary considerably, additional control circuits may be required with timing devices so arranged that a warning time, not too long for the slower trains, will be automatically selected.

(*a*) Cut-out controls may be required to prevent unnecessary operation of the signals when trains make regular operating stops or perform switching operations on the operating circuits.

(*b*) If such controls are automatically operated, circuits shall be so designed or train speed restricted as to ensure the required operating time of signals, when the train again proceeds towards the crossing.

(*c*) Automatic control of the signals actuated by approaching trains, other than the train that has stopped or is performing switching operations shall take preference over any cut-out feature.

(*d*) Means shall be provided to ensure restoring of the controls to automatic operation.

11. The normal functioning of any device shall not be interfered with in testing or otherwise without first taking measures to ensure safety of traffic which depends on the normal operation of such device.

12. Details of the signals, gates where required, operating mechanisms and control circuits shall be in accordance with A.A.R. recommended practice.

13. Gates may be required where they are necessary to provide proper protection of highway traffic.

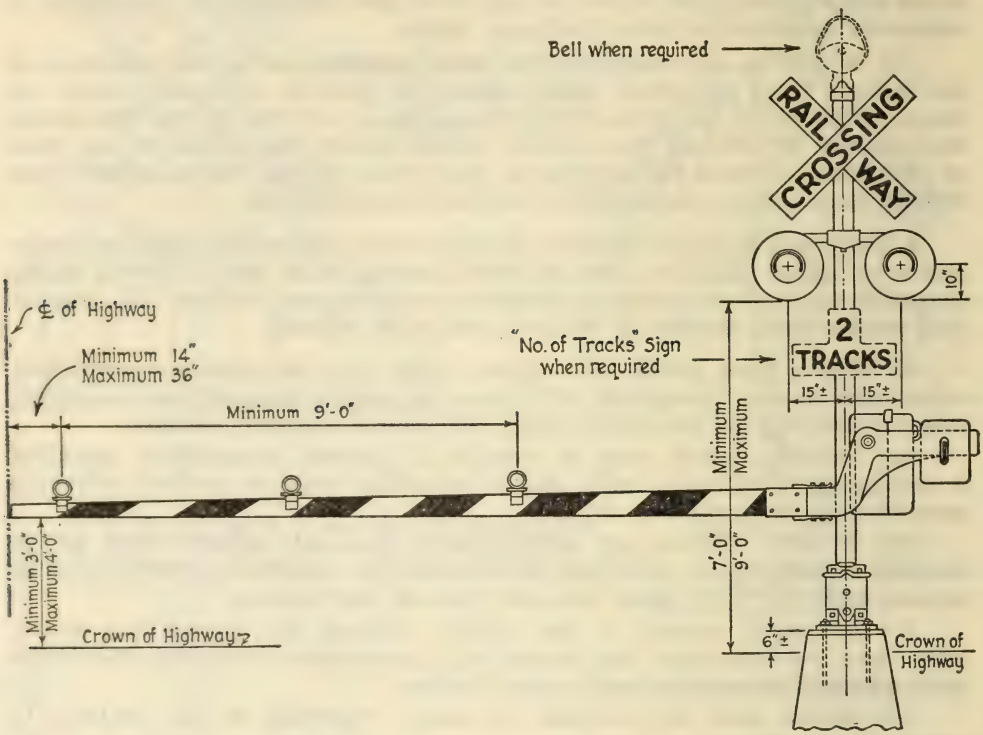
14. The assembly of gate apparatus shall conform to Board's drawing entitled "Gates at Highway Crossings" dated February 15, 1955.

15. The gates shall be installed as adjuncts to signals of the flashing light type and the following requirements shall apply in addition to the requirements previously set out in this Order.

16. A gate shall be placed on each side of the track, preferably to the right of approaching highway traffic. When indicating the approach of a train, it shall present, toward approaching highway traffic, the aspect of an arm

equipped with red lights being lowered across the lane or lanes used by traffic approaching the crossing or, at rest in a horizontal position across the lane or lanes.

17. They shall preferably be mounted on the same post as the flashing light signals. Each individual gate post shall be provided with independent operating mechanism. Each gate arm shall be equipped with not less than three red lamps arranged to shine in both directions along the highway. Lights shall operate at all times when the gate is in position to obstruct highway traffic.



GATES AT HIGHWAY CROSSINGS

February 15, 1955.

18. The light nearest the tip shall burn steadily, and the other lights shall flash alternately and in unison with the lights on the signal. The tip light shall be not less than fourteen inches or more than thirty-six inches from the tip of the arm.

19. The gate arms shall be painted on both sides with alternate diagonal stripes of black and white. The stripes shall be sixteen inches wide. All other parts shall be painted white or aluminum.

20. The gate arms, when not indicating the approach of a train, shall not obstruct or interfere with highway traffic.

21. The gate arms shall operate uniformly, smoothly, and complete all movements without rebound or slap, and be securely held when in raised position.

22. The mechanism shall be so designed that if the arms, while being raised or lowered, strike or foul any object, they will readily stop, and, on removal of the obstruction, shall assume the position corresponding with the control apparatus.

23. The design of the gate operating mechanism shall, so far as practicable, be such as to ensure proper operation during unfavourable weather conditions, and if out of order, the gate arms shall assume the horizontal position across the roadway.

24. Circuits for operation of the gates shall be so arranged that gates will start their downward motion not less than three seconds after the signal lights start to operate. Gate arms shall reach full horizontal position before any train on a main track reaches the crossing, and shall remain down until the rear of the train has cleared the crossing.

25. Signal and instrument cases shall be locked.

It is further ordered that the said regulations do not apply to an existing installation made prior to the date of this Order unless and until the type of protection thereat is changed.

It is also further ordered that General Orders No. 607, dated the 29th day of September, 1941, No. 676 dated the 29th day of November, 1945, and No. 680, dated the 16th day of February, 1946, be, and they are hereby rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86460

In the matter of the application of Muirhead Forwarding Limited, Toronto, Ontario, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

THURSDAY, the 23rd day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of canned goods and preserves from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby fixed for Muirhead Forwarding Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86461

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 77:

File No. 40994·65

THURSDAY, the 23rd day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge C.T.C. No. 77, on file with the Board under file No. 40994·65, be, and it is hereby, approved; and that the date as from which the said Supplement No. 2 shall be deemed to have become operative is hereby fixed as May 20, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86462

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act for approval of an agreed charge dated May 16, 1955, and for approval of Supplement No. 1 thereto:

And in the matter of the application of Swift Canadian Co., Limited and Purex Corporation, Ltd., for a charge to be fixed the same as the agreed charge as aforesaid:

File No. 40994·78

THURSDAY, the 23rd day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submission filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered

1. That the agreed charge, dated May 16, 1955, on file with the Board under file No. 40994·78, between the parties named in paragraph A thereof, applying on Advertising Matter, Cleaning Compounds, Glycerine, Lard Substitutes, Margarine, Premiums, Soap, Toilet Preparations and Washing Compounds as described in paragraph B thereof from Hamilton and Toronto, Ontario, to stations and/or places specified in paragraph C(2) thereof, be, and it is hereby, approved; and the Board hereby fixes the 17th day of May, 1955, as the date from which the said agreed charge shall be deemed to have become operative.

2. That the said Supplement No. 1 to the agreed charge mentioned in paragraph numbered 1 hereof, be, and it is hereby, approved; and the Board hereby fixes the 13th day of June, 1955, as the date from which the said Supplement No. 1 shall be deemed to have become operative.

3. That a charge is hereby fixed for the transport by the said Carrier of the same goods from the same points of origin to the same points of destination as set out herein, for Swift Canadian Co., Limited and Purex Corporation Ltd., subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby fixes as the dates upon which the said fixed charges shall become operative as follows:

Swift Canadian Co., Limited—May 31, 1955.

Purex Corporation, Ltd.—June 3, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86463

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 9 to Agreed Charge C.T.C. (AC) No. 76:

File No. 40994·60

THURSDAY, the 23rd day of June, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 9 to Agreed Charge C.T.C. (AC) No. 76, on file with the Board under file No. 40994·60, be, and it is hereby, approved; and that the date as from which the said Supplement No. 9 shall be deemed to have become operative is hereby fixed as May 17, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86507

In the matter of the application of The Andrew Jergens Company, Limited, Perth, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 91 as approved by the Board:

File No. 40994·78

MONDAY, the 4th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas The Andrew Jergens Company, Limited, has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its advertising matter, cleaning compounds, glycerine, lard substitutes, margarine, premiums, soap, toilet preparations (except perfumes) and washing compounds from Perth, Ontario, to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 91, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 91 for the transport, by the railway companies parties thereto, of advertising matter, cleaning compounds, glycerine, lard substitutes, margarine, premiums, soap, toilet preparations (except perfumes) and washing compounds, as described in paragraph B of the said Agreed Charge, shipped by The Andrew Jergens Company, Limited, from Perth, Ontario, to the stations and/or places as set out in paragraph C(2) of the said agreed charge, subject to and upon the terms and conditions contained in the said agreed charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86508

In the matter of the application of the Canadian Freight Association, dated May 20, 1955, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated May 20, 1955, between the Canadian Pacific Railway Company, referred to therein as the "Carrier", and Cowin & Company, Dominion Bridge Company, Limited, Manitoba Bridge & Engineering Works, Limited, Manitoba Rolling Mill Company, Limited, and Vulcan Iron & Engineering, Limited, referred to therein as the "Shipper":

File No. 40994·79

MONDAY, the 4th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge on file with the Board under file No. 40994·79, and attached to the said application, between the Carrier and Shipper described in paragraph A thereof, applying on Iron or Steel Commodities, carloads, as described in paragraph B thereof, from the stations and/or places specified in paragraph C(1) thereof to stations and/or places specified in paragraph C(2) thereof, be, and it is hereby, approved; and the Board hereby fixes the 24th day of May, 1955, as the date on which the said agreed charge shall be deemed to have become operative.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86510

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 57:

File No. 40994·44

MONDAY, the 4th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 57, on file with the Board under file No. 40994·44, be, and it is hereby, approved; and that the date as from which the said Supplement No. 7 shall be deemed to have become operative is hereby fixed as May 31, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86521

In the matter of the application of Canadian Petrofina Limited, Montreal, P.Q., dated June 23, 1955, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 14 as approved by the Board:

File No. 40994·16

TUESDAY, the 5th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Whereas Canadian Petrofina Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 14, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 14 for the transport, by the railway companies thereto, of petroleum products in tank cars, as described in paragraph B of the said Agreed Charge, shipped by Canadian Petrofina Limited from Montreal (Cote St. Paul, Hochelaga, Longue Pointe, Montreal East, Moreau Street and Point St. Charles), in the Province of Quebec, to Hull, in the Province of Quebec, and Ottawa, in the Province of Ontario, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall become effective on July 5, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86524

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 63:

File No. 40994·50

WEDNESDAY, the 6th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 63 on file with the Board under file No. 40994·50, be, and it is hereby approved; and that the date as from which the said Supplement No. 4 shall be deemed to have become operative is hereby fixed as June 4, 1955.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86531

In the matter of the application of Canada Steamship Lines Limited for a licence under section 10 of the Transport Act;

And in the matter of Orders of the Board No. 85595, dated February 17, 1955, No. 85787, dated March 17, 1955, and No. 86315, dated May 31, 1955:

File No 42076·4·2

WEDNESDAY, the 6th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 85595, dated February 17, 1955, be, and it is hereby, amended by inserting in paragraph numbered 2 thereof, the following:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Iroquois	176119	2299·89

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86535

In the matter of Order No. 85198, dated December 17, 1954, which fixed a charge the same as Agreed Charge C.T.C. (AC) No. 76 on behalf of Packard Motor Car Company of Canada, Limited, Windsor, Ontario:

File No. 40994·60

THURSDAY, the 7th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Order No. 85198, dated December 17, 1954, be, and it is hereby, rescinded.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86543

In the matter of the application of Red and White Corporation Limited, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

FRIDAY, the 8th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of canned goods and preserves from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby, fixed for Red and White Corporation Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the Transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Asst. Chief Commissioner.

ORDER No. 86556

In the matter of the application of the Canadian Freight Association, dated July 5th, 1955, for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 85:

File No. 40994·72

TUESDAY, the 12th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 85, on file with the Board under file No. 40994·72, be, and it is hereby, approved; and that the date from which the said Supplement No. 3 shall be deemed to have become operative is hereby fixed as the 6th day of July, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86454 June 21—Authorizing the C.N.R. to reconstruct the timber bridge across Eagle Creek, B.C., at mileage 125·2 Fraser Subdivision.

86455 June 21—Requiring the C.N.R. to install certain protection at the crossing of Twin City Crossroad near Rosslyn, Ont.

86456 June 22—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways near Oban, Sask.

86457 June 23—Permitting the removal of slow order at C.P.R. crossing at Portlock, Ont.

86458 June 23—Authorizing the C.N.R. to remove the station agent at Estlin, Sask., and to appoint a caretaker.

86459 June 23—Permitting the removal of slow order at C.N.R. crossing of Fulford Street, Montreal, Que.

86460 June 23—In the matter of the application of Muirhead Forwarding Limited, Toronto, Ont., for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86461 June 23—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 77.

86462 June 23—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated May 16, 1955, and for approval of Supplement No. 1 and in the matter of the application of Swift Canadian Co., Limited and Purex Corporation, Ltd., for a charge to be fixed the same as the agreed charge as aforesaid.

86463 June 23—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 9 to Agreed Charge C.T.C. (AC) No. 76.

86464 June 23—In the matter of the joint application of the C.P.R. and Alberta Coal Company Limited, for sanction of an agreement between the C.P.R. and Alberta Coal Company Limited whereby C.P.R. has agreed to purchase from Alberta Coal Company Limited a line of railway from Halkirk, Alta., to the mines of the Alberta Coal Company Limited.

86465 June 23—Permitting the removal of slow order at C.P.R. crossing of Lesperance Road, being the fourth crossing west of Elmstead, Ont.

86466 June 23—In the matter of the application of the C.P.R., on behalf of Imperial Oil Limited for temporary permit to load crude oil into tank cars from tank trucks at Pierson, Man.

86467 June 23—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Hilda, Alta.

86468 June 23—Permitting the removal of slow order at C.N.R. crossing south of the station at Donalda, Alta.

86469 June 23—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86470 June 23—Permitting the removal of slow order at C.P.R. crossing of St. Laurent Boulevard, Ottawa, Ont.

86471 June 23—Permitting the removal of slow order at Montreal & Southern Counties Railway and Church Street crossing, in the Town of Marieville, Que.

86472 June 23—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its North Bay Subdivision, Ont.

86473 June 24—In the matter of the application of the C.P.R. on behalf of Flock Gas and Oil Corporation Limited, for temporary permission to load crude oil into tank cars from tank trucks at Denhart, Alta.

86474 June 24—Authorizing The Toronto, Hamilton and Buffalo Railway Company to make signal changes in the Centralized Traffic Control area, Hamilton-Welland, Ont.

86475 June 24—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at St. Francois du Lac, Que.

86476 June 24—Approving operation of C.N.R. trains over private siding serving the Department of National Defence near Duagh, Alta.

86477 June 24—Approving proposed location of storage tank, etc. of Redi-Gas Limited, near the C.P.R. tracks at Ghent, Alta.

86478 June 24—In the matter of approval of plan submitted to the C.P.R. by Liquefied Gas Utilities Limited, showing the location of storage tank, etc., for the handling and storage of liquefied petroleum gas at Joliette, Que.

86479 June 24—Authorizing the Toronto, Hamilton and Buffalo Railway Company to make changes to the automatic signals at West Hamilton, Ont.

86480 June 24—Permitting the removal of slow order at C.P.R. crossing west of the station at Monklands, Ont.

86481 June 24—Permitting the removal of slow order at C.P.R. crossing being the first crossing south of the station at Balzac, Alta.

86482 June 24—Permitting the removal of slow order at C.P.R. crossing of Highway No. 14, being the second crossing west of Lambton Park, Alta.

86483 June 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Hallonquist, Sask.

86484 June 27—Authorizing the Alberta Department of Highways to widen Highway No. 16 where it crosses the pipe line of the Trans Mountain Oil Pipe Line Company in the Northeast quarter of Section 25, Twp. 50, Rge. 26, W5M, Alta.

86485 June 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Govan, Sask.

86486 June 27—Relieving the C.P.R. from erecting gates at the private crossing of its railway at mileage 18·07 Newport Subdivision, Que.

86487 June 27—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86488 June 27—Authorizing the C.N.R. to use the bridge at mileage 14·8 Nechako Subdivision, B.C.

86489 June 27—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

86490 June 28—Authorizing the Town of Nicolet, Que., to construct Normal School Street across the C.N.R. in the Town of Nicolet, Que.

86491 June 28—Relieving the C.P.R. from erecting cattle guards at the crossing of Glasgow Street, in the Village of Mission City, B.C.

86492 June 28—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86493 June 28—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86494 June 28—Authorizing the Ontario Department of Highways to construct Highway No. 69 across the C.P.R. at mileage 125·60 MacTier Subdivision, Ont.

86495 June 28—Approving clearances between C. G. Crowson's coal shed and the siding serving Record Stove and Furnace Company at mileage 0·13 Moncton Wharf Branch, mileage 124·72 Springhill Subdivision, C.N.R., N.B.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 86534

In the matter of the application of the Canadian National Railways under section 259 and all other relevant sections of the Railway Act, for an Order authorizing them to cross McCowan Road with three tracks, Brimley Road with three tracks and the unopened road allowance with one track, all located in their Scarborough Yard, at Scarborough, Ontario, as shown on Plan No. C-15993, revised to September 10, 1954, on file with the Board under file No. 22773·7:

THURSDAY, the 7th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at a sitting of the Board at Toronto on April 25, 1955, in the presence of Counsel for Canadian National Railways and for the Township of Scarborough, and upon consideration of the submissions filed and for reasons that will be published at a later date—

It is ordered that Canadian National Railways be, and they are hereby, authorized to construct and maintain at their own expense the said proposed three tracks across McCowan Road, three tracks across Brimley Road and one track across the unopened road allowance, all located in Scarborough Yard at Scarborough, Ontario, as shown on Plan No. C-15993, revised to September 10, 1954, on file with the Board under file No. 22773·7; the said crossings to be constructed in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86592

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 83:

File No. 40994·71

MONDAY, the 18th day of July, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 83, on file with the Board under file No. 40994·71, be, and it is hereby, approved; and that the date as from which the said Supplement No. 6 shall be deemed to have become operative is hereby fixed as June 1st, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86620

In the matter of the application of D'Arcy Cropp, of Niagara Falls, Ontario, Benson-Leavens Canning Company, of Picton, Ontario, Steamships Forwarding Company Limited, of Montreal, Quebec, McKenzie Canners, of Colborne, Ontario, Canadian Freight Forwarding Co. Ltd., of Montreal, Quebec, Lennox Foods Limited, of Bath, Ontario, and Ault Creamery Limited, of Brockville, Ontario, hereinafter called the "Applicants", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

THURSDAY, the 21st day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas the Applicants have made application under subsection 8 of section 32 of the Transport Act, and have represented to the Board that their business will be unjustly discriminated against unless a similar charge be fixed for the transport of canned goods and preserves from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and have expressed their willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby, fixed for D'Arcy Cropp, Benson-Leavens Canning Company, Steamships Forwarding Company Limited, McKenzie Canners, Canadian Freight Forwarding Co. Ltd., Lennox Foods Limited and Ault Creamery Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C (1) to stations and/or places specified in paragraph C (2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86496 June 29—In the matter of the application of the Northern Alberta Railways Company on behalf of Ameranda Petroleum Company for extension of temporary permit to load crude oil into tank cars from tank trucks at Kenzie, Alberta.

86497 June 29—In the matter of the application of the C.N.R. on behalf of the Royalite Oil Company Limited, for extension of approval of facilities for loading crude oil into tank cars from tank trucks at Carvel, Alberta.

86498 June 29—In the matter of the application of the C.N.R. on behalf of Central Leduc Oils Limited, for temporary permission to load crude oil into tank cars from tank trucks at Mileage 8·9, Weyburn Subdivision, C.N.R., Saskatchewan.

86499 June 29—Approving under the Maritime Freight Rates Act tolls filed by the Canadian Freight Association under Sections 3 and 8.

86500 June 29—Authorizing the Cornwall Street Railway Light and Power Company to make changes in the signal protection at the crossing of its railway and the Ottawa Division of the New York Central Railroad at Cornwall.

86501 June 30—Authorizing the Township of Scarborough, Ontario, to improve the C.N.R. crossing of Bellamy Road, Township of Scarborough, Ontario.

86502 June 30—Dismissing the application of the C.N.R. for authority to remove the station agent at Minto, Manitoba.

86503 June 30—Permitting the removal of slow order at C.N.R. crossing about three miles west of Chatham, Ontario.

86504 June 30—Approving under the Maritime Freight Rates Act tolls published in Supplements to tariffs filed by the C.N.R. under Sections 3 and 8.

86505 June 30—In the matter of the application of the C.N.R. for authority to remove the station agent at Woodnorth, Man.

86506 July 4—Approving under the Maritime Freight Rates Act tolls filed by the C.P.R. under Sections 3 and 8.

86507 July 4—In the matter of the application of The Andrew Jergens Company, Limited, Perth, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 91.

86508 July 4—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated May 20, 1955, between the C.P.R. and Cowin & Company, Dominion Bridge Company, Limited, Manitoba Bridge & Engineering Works, Limited, Manitoba Rolling Mill Company, Limited and Vulcan Iron & Engineering, Limited.

86509 July 4—In the matter of approval of plan submitted to The Chesapeake and Ohio Railway Company by Daniels Coal Company, showing the proposed location of pipe lines, etc., for the handling of liquefied petroleum gas, at Chatham, Ontario.

86510 July 4—In the matter of application of the Canadian Freight Association for approval of Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 57.

86511 July 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at New Richmond, Quebec.

86512 July 5—Dismissing the application of the C.N.R. for authority to discontinue as an agency their station at Abbotsford, Quebec.

86513 July 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Mafeking, Manitoba.

86514 July 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Odessa, Saskatchewan.

86515 July 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank, etc., at Paradise Hill, Saskatchewan.

86516 July 5—Authorizing the Quebec North Shore and Labrador Railway Company to make signal changes between Mileages 60 and 100, Province of Quebec.

86517 July 5—Authorizing the C.P.R. to install certain protection at the crossing of their railway and Second Line East at Mileage 13·0 Galt Subdivision in the Province of Ontario.

86518 July 5—In the matter of the application of the C.N.R. for authority to install series relays in the timing sections at crossing of their railway and Route No. 49 in Plessisville, Quebec, at Mileage 40·54 Danville Subdivision.

86519 July 5—In the matter of the application of the C.P.R. and the C.N.R. for authority to operate their trains over Queen's Quay East and the siding serving Marine Terminal on Pier No. 11 of the Toronto Harbour Commissioners in the City of Toronto, Ontario.

86520 July 5—Authorizing the C.N.R. to construct a lead track to serve the Ajax Industrial area across certain Streets in the Town of Ajax, Ontario.

86521 July 5—In the matter of the application of Canadian Petrofina Limited, Montreal, P.Q., dated June 23, 1955, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 14.

86522 July 6—Authorizing the C.P.R. to remove the station building and platform at Rockhaven, Quebec.

86523 July 6—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

86524 July 6—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 63.

86525 July 6—In the matter of the application of the Chesapeake and Ohio Railway Company for a recommendation by the Board for sanction of an Agreement between the New York Central Railroad Company, the Michigan Central Railroad Company, the Canada Southern Railway Company and Detroit River Tunnel Company.

86526 July 6—In the matter of the application of the Chesapeake and Ohio Railway Company for a recommendation by the Board for sanction of an Agreement between the New York Central Railroad Company, the Michigan Central Railroad Company, the Canada Southern Railway Company and Detroit River Tunnel Company.

86527 July 6—In the matter of the application of the C.N.R. for an Order extending the time within which they were required to install certain protection at the crossing of their railway and Steele Street in the City of Port Colborne, Ontario.

86528 July 6—Relieving the C.P.R. from erecting right-of-way fencing between certain Mileages on its Emerson Subdivision, Manitoba.

86529 July 6—Permitting the removal of slow order at C.N.R. crossing east of Bloom, Manitoba.

86530 July 6—Authorizing the C.N.R. to remove the station agent at Wartime, Saskatchewan.

86531 July 6—In the matter of the application of Canada Steamship Lines Limited for a licence under section 10 of the Transport Act.

86532 July 7—Dismissing application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Rutland, Saskatchewan.

86533 July 7—Dismissing the application of the C.N.R. for authority to remove the station agent and appoint a caretaker at Fielding, Saskatchewan.

86534 July 7—Authorizing the C.N.R. to construct three tracks across McCowan Road, three tracks across Brimley Road and one track across the unopened road allowance in Scarborough Yard at Scarborough, Ontario.

86535 July 7—Rescinding Order No. 85198, dated December 17, 1954, which fixed a charge the same as Agreed Charge C.T.C. (AC) No. 76 on behalf of Packard Motor Car Company of Canada, Limited, Windsor, Ontario.

86536 July 7—Approving proposed location of storage tanks, etc., of Edwards Sudbury Limited, near C.N.R. tracks near Sudbury, Ontario.

86537 July 8—Authorizing the Toronto Harbour Commissioners to construct a siding to serve the leasehold lands of Bowes Company Limited, Villiers Street, Toronto, Ontario.

86538 July 8—In the matter of approval of plan submitted to the C.P.R. by Canadian Oil Companies Limited, showing proposed location of storage tanks, etc., at Shawinigan Falls, P.Q.

86539 July 8—Relieving the C.N.R. from erecting fencing along certain portions of their right-of-way at Mileage 31·78 Grenville Subdivision, Ontario.

86540 July 8—Authorizing the C.N.R. to remove the interlocker at crossing of their railway and the railway of Montreal and Southern Counties Railway Company at Windmill Point, Montreal, P.Q.

86541 July 8—Permitting the removal of slow order at crossing of Tecumseh Road and the C.P.R. at Mileage 110·77 Windsor Subdivision.

86542 July 8—In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act and Order No. 86487, dated June 27, 1955, approving tolls in Tariff C.T.C. No. 1515 filed by the Canadian Freight Association.

86543 July 8—In the matter of application of Red and White Corporation Limited, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86544 July 11—Approving proposed location of the C.N.R. station to be erected at Kitimat, British Columbia.

86545 July 11—In the matter of the application of the C.N.R. for approval of plan showing automatic protection at the crossings of their railway and in certain streets in the City of Hamilton, Ontario.

86546 July 12—In the matter of approval of plan submitted to the C.P.R. by Yamaska Petroleum Company, Limited, showing proposed location of storage tanks, etc., at Ste. Rosalie Junction, Quebec.

86547 July 12—Authorizing the Saskatchewan Department of Highways to widen Highway No. 14 where it crosses the C.P.R.'s branch line south of Wilkie, Saskatchewan.

86548 July 12—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near C.N.R. tracks at Prince Albert, Saskatchewan.

86549 July 12—Approving proposed location of storage tanks, etc., of North Star Oil Limited near C.N.R. tracks at Kelvington, Saskatchewan.

86550 July 12—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Rossburn, Manitoba.

86551 July 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Rockhaven, Saskatchewan.

86552 July 12—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near C.N.R. tracks at Woodstock, New Brunswick.

86553 July 12—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Benito, Manitoba.

86554 July 12—Approving proposed location of storage tanks, etc., of Austin Consumers Co-Operative Limited, near C.P.R. tracks at Austin, Manitoba.

86555 July 12—In the matter of changes in rate grouping of certain telephone exchanges of the British Columbia Telephone Company.

86556 July 12—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 85.

86557 July 12—Authorizing the C.N.R. to construct a bridge over the Bell River, Mileage 11·0 Beattyville-Chibougamau Branch Line.

86558 July 13—Authorizing the Town of Dorion, Quebec, to construct a sewer pipe under the tracks of the C.P.R. at St. Charles Street, in the Town of Dorion, Quebec.

86559 July 13—In the matter of changes in rate grouping of certain telephone exchanges of The Bell Telephone Company of Canada.

86560 July 13—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

86561 July 13—Authorizing the City of Ottawa, Ontario, to lay a sewer pipe under the C.P.R. at Woodroffe Avenue in the City of Ottawa, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLV OTTAWA, SEPTEMBER 1, 1955 No. 11

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In the matter of the application of the Canadian National Railway Company under Sections 33, 34, 315 and all other relevant sections of the Railway Act for an Order authorizing the discontinuance of the present local railway passenger service on their Island Division, in Prince Edward Island, during eight months in each year, from approximately mid-April to mid-December.

File No. 27563.461

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Charlottetown, P.E.I., on June 21st and 22nd, 1955.

Appearances:

J. W. G. MACDOUGALL, for Canadian National Railways.

J. O. C. CAMPBELL, Q.C., for the Province of Prince Edward Island.

K. M. MARTIN, Q.C., and A. H. BALCH } for Province Legislative Committee of the International Railway Transportation Brotherhoods.

MELVIN J. MCQUAID, for the Board of Trade of the Town of Souris.

PETER W. PATE, for the Town of Alberton and the Villages of Tignish and O'Leary.

JOHN MUNGALL, for the Board of Trade of the Town of Summerside.

J. A. MACDONALD, for the Canadian Legion.

CLYDE J. FITCH, for the Maritimes Transportation Commission.

JUDGMENT

CHASE, Commissioner:

This application was filed with the Board under date of December 27th, 1954, and in support thereof the Canadian National Railway Company, hereinafter referred to as the "Railways", stated in part as follows:

"(1) That the present local railway passenger service on the Applicant's Island Division is performed entirely by mixed trains carrying freight, passengers, express, baggage and mail, on the schedules shown in Exhibit 1 attached hereto. Passenger operations on the Island Division have not even returned the out-of-pocket costs of operation for many years due to the large use made by the public of private automobiles and buses. This is particularly marked in the summer months when the public prefers to go by highway and the numbers using the Applicant's local trains dwindle to just a handful.

(2) That an offer was made by the Applicant in 1952 to modernize its passenger transportation service on Prince Edward Island by providing a coordinated bus and truck service for approximately ten (10) months of the year with a standby train service being available in the winter if snow conditions became too severe or spring breakup put the highways temporarily out of use. After examination by a Legislative Committee this offer was not accepted.

(3) That in these circumstances the Applicant has examined further into the situation in Prince Edward Island to see if there exists any alternative steps which can be taken to improve transportation for the public, which would also meet the objections voiced by the said Legislative Committee and at the same time enable the Applicant to reduce its deficit from passenger operations. In the result the Applicant has come to the conclusion that the local travelling public, who have evidenced a preference for highway travel particularly during the summer months, will be best served if the Applicant offers to withdraw from local passenger service during the summer time, leaving this field entirely to the local bus operator who will then have the opportunity of maintaining and expanding its present highway services and of providing even more convenient and suitable services in the future.

(4) That the Applicant therefore proposes that the operation of all scheduled local passenger services in Prince Edward Island be discontinued from approximately mid-April to mid-December in each year and that during the winter months, from approximately mid-December to mid-April in each year these services be restored on their present schedules.

(5) That through passenger trains No. 39 and No. 40, presently operating between Charlottetown and the mainland, will continue to operate on a year-round basis unaffected by this application.

(6) That a new daily except Sunday mixed train service will be operated from mid-April to mid-December to provide Summerside with a passenger service connection with through trains No. 39 and No. 40.

(7) That express traffic now handled partially by local mixed train services and partially by truck will be transported entirely by means of trucks operated by the Applicant so as to give service equally as good or better than that presently offered to our patrons on the Island Division.

(8) That with the discontinuance of passenger service by mixed trains the Applicant will be able to provide a much improved freight service for its patrons on the Island Division, since it will not have its freight trains tied to rigid passenger schedules. It will, therefore, be able to give service by regular freight trains or extras, as traffic may warrant.

(9) That attached hereto and marked Exhibit 2 are the present bus schedules operated by Island Motor Transport Limited on the highways of Prince Edward Island, giving service on a year-round basis to all areas on the Island now served by railway.

(14) That the annual economy to the Applicant which will result from the discontinuance of its local passenger services on Prince Edward Island during the summer months each year, taking into account the maintenance of a passenger service connection between Summerside and through trains No. 39 and No. 40 on a year-round basis, is estimated at approximately $101,000 if mail traffic presently carried is lost to the Applicant and at approximately $120,000 if this mail traffic contract is awarded to Applicant's truck service.

(16) That the result of the granting of this application will be that—

(*a*) during the summer months the passenger service presently provided by the local highway carrier will take care adequately of local passenger traffic offering on Prince Edward Island and also be encouraged and enabled to expand and improve its operations;

(*b*) during the winter months passenger service by rail will be restored on the basis of the present winter schedules;

(*c*) through train service connections will be maintained between the mainland and Charlottetown and Summerside, 6 days per week on a year-round basis;

(*d*) the Applicant will be able to provide a more expeditious and convenient service for freight and express traffic on Prince Edward Island;

(*e*) the Applicant will be able to improve its income position by an amount conservatively estimated at about $101,000 per year and in all probability make savings considerably in excess of that figures."

The railways furnished copies of this application to the Federal Members of Parliament representing the Province of Prince Edward Island, the Members of the Legislative Assembly of Prince Edward Island, the various Boards of Trade in Prince Edward Island, the Mayors of incorporated towns in Prince Edward Island, and to Mr. G. Carl Bird, Manager, S.M.T. (Eastern) Limited, Saint John, N.B. NOTE: S.M.T. operates a bus line service in Prince Edward Island.

In addition to the above mentioned, the Board, in line with its usual practice, sent notices out to a large number of other persons, including the representatives of the Railway Transportation Brotherhoods.

The application was opposed by the Government of Prince Edward Island, the various Boards of Trade, certain towns, the Canadian Legion, and the Transportation Brotherhoods.

The hearing was conducted in Charlottetown on June 21st and 22nd, 1955, and during the hearing it developed that in addition to the mixed trains referred to in the application, during the year 1954 the railways operated 2,824 extra freight trains, 1,306 of which operated on the lines between Charlottetown, Summerside and Tignish, Summerside and Borden, and Summerside and Emerald Junction. 312 extra trains were operated on the lines Charlottetown to Souris and Elmira, Charlottetown to Murray Harbour, and Charlottetown to Mount Stewart Junction and Georgetown.

Generally speaking, the opposition to the application related more to the proposed freight service which, as indicated in the application, the railways intended to operate, than to the elimination of the so-called passenger service.

Various witnesses took the stand and contended that if the passenger service were discontinued between mid-April and mid-December it would not meet the requirements of the public, principally for the reason that in many instances the highways might be blocked or be in such a condition as to be impassible for heavy vehicles such as buses and trucks, and, moreover, the proposal of the railways to operate certain regular freight service on certain days during each week would not be satisfactory, the view being expressed that in order to meet the interests of the shippers a regular daily freight service was required.

It being apparent that these witnesses held the view that there was no flexibility in the proposals made by the railways, I requested Mr. Macdougall, Counsel for the railways, to clarify the situation. See pages 3035 and 3036 of the transcript, wherein the following appears:

"MR. MACDOUGALL: I am certainly glad to have that mentioned again, Mr. Commissioner Chase, I thought that we mentioned it several times during the course of the hearing and I would certainly say on behalf of the railway that your statement is absolutely correct. There is no intention on the part of the railway company to insist upon fixed dates. We appreciate the problem of the highways and I think we have made it clear that our suggestion is approximately mid-April to approximately mid-December but that we are quite prepared to adjust that if the requirements of the public are that it should be adjusted. And certainly our endeavour is to give freight service to the public both by highway and railway co-ordinated together, so as to give them the best possible service we can.

Commissioner CHASE: Right.

Mr. MACDOUGALL: And there is certainly no intention on our part to be rigid about it. And on the other point, sir, with respect to the scheduling of the regular freight trains which we are suggesting should be put on, it is our intention as I think one of the witnesses said yesterday, to come to the public in Prince Edward Island, the shippers, and see what they want and what they require and what they need; and our interest is to endeavour to set that service up in the manner which will give them the best possible service all over the Island and to run our extra freight trains as the traffic requires to give the best service we can give to the public.

I don't know how I could make it any more clear. Perhaps my powers of expression are not as good as they should be but I would not want to give the impression that it is an inflexible matter. Certainly it is most flexible from our point of view."

Mention should also be made of the fact that Mr. G. Carl Bird, Manager of the bus line operating in Prince Edward Island, appeared as a witness and, among other things, stated that his bus line operation in Prince Edward Island was not profitable, having lost some $12,000 during the year 1954. He was not opposed to the application of the railways but appeared to be of the opinion that if the application were granted he might secure more business and might be able to improve the bus service.

At page 2936 of the transcript Mr. Bird stated:

"There is no doubt that the Island Motor Transport can handle all the passenger business on Prince Edward Island. We are able and anxious to have it."

And further down on the same page the following appears:

"Q. And your operations, Mr. Bird, are they year round or are you off the road for a number of months in the year?—A. We are off the road from the road closing period in the winter and spring months.

.

Q. And when do you go back on the road generally—A. The last two years we have gone back on the road on April 25th. Prior to that we have sometimes gone until the first of May or the fifth of May."

At this point it would appear that a comment is in order. The railways are losing money in the carrying of passengers in Prince Edward Island and Mr. Bird gave evidence that the bus line is losing money too. It may well be, having regard to the situation prevailing in Prince Edward Island—both as to the handling of passengers, L.C.L. freight and express—that a co-ordinated system of rail and highway transportation would better meet the needs of the people and at the same time effect some economies.

To return now to the arguments advanced with regard to the necessity of operating regular freight service daily on all the railway lines in Prince Edward Island. In my opinion, if the Board ordered the railways to operate a regular daily freight service, no worthwhile economies whatsoever could be affected. They might just as well continue to haul the odd coach or two at the rear of freight trains and it appears to me that, while the shippers are at the moment quite apprehensive, a further study of the situation might prove that the interests of all concerned would be better served if extra trains were operated if, as and when required. However, the opinion seems to be that regular freight trains are preferable and, such being the case, the Board will expect the railways to carry out their promise, meet with the shippers and endeavour to arrange for a mutually satisfactory freight service, if possible.

The suggestion was also made that in the event of the application being approved, some arrangement should be made whereby the railway tickets would be interchangeable with bus line tickets. This has been done in other localities, and while no order will issue with respect to the suggestion, the railways are urged to endeavour to work out such an arrangement.

Complaint was also made with respect to the type of passenger equipment used in Prince Edward Island, it being commented that one or more of the coaches presently in use are equipped with coal oil lamps and coal stoves and that if an improved passenger service were put into operation the railways might secure more passenger traffic.

We suggest that the railways give the above matter full consideration with a view towards providing better passenger equipment.

Summary:

The application of the railways is for an Order authorizing the discontinuance of the present local railway passenger service on their Island Division in Prince Edward Island during eight months of the year from approximately mid-April to mid-December.

As indicated herein, during the hearing considerable discussion developed in relation to the operation of freight service. The railways mentioned this operation in their statements in support of the application which undoubtedly enabled the opposing parties to stress that subject. However, the matter of the operation of freight service is not at this time before the Board. Section 315 of the Railway Act is adequate to cover the situation and if it develops that the freight service is unsatisfactory, complaint can be made to the Board.

The evidence indicates, and it is stated herein, that both the railways and the bus lines are losing money in the operation of passenger services. It would therefore appear that some remedial action is warranted.

As far as the railways and the general public are concerned, the Board has on many occasions taken the position that for the railways to succeed in an application such as this the losses to the railways must offset the inconvenience to the public.

In this case, if the application were approved in its entirety, the savings to the railways, it is stated, would be approximately $100,000 per annum.

This case is somewhat similar to that of an application of the Canadian Pacific Railway Company with respect to its electric lines—The Lake Erie and Northern, operating from Galt to Port Dover, Ontario, and the Grand River Railway, operating from Galt to Waterloo, and a branch line between Prescott and Hespeler, all in the Province of Ontario, which was decided in March, 1955, and by Order No. 85853 dated March 24th, 1955 the discontinuance of the passenger service on the above mentioned lines was authorized, the estimated savings being approximately $100,000 per annum. In that case it was shown to the Board that the Canadian Pacific Railway Company had made an application for a franchise to operate a bus line. The application was declined because a bus company already held a franchise. The bus company exercised its franchise and the bus service is now in operation. The Canadian Pacific is now handling L.C.L. freight and express by highway.

A somewhat similar situation obtains in the Province of Nova Scotia. Under date of February 24th, 1955, by Order No. 85643, the Board approved of the discontinuance of passenger service on the Canadian National Railways between New Glasgow and Pictou, Nova Scotia, and Sunnybybrae and New Glasgow and Hopewell, all in the Province of Nova Scotia. In that case, a bus line is operating, handling the passenger traffic, and the Canadian National operates a truck service to handle L.C.L. and express.

It will be seen by the above that the railways are not endeavouring to start something brand new in the Province of Prince Edward Island . There is an old saying that we make progress by way of trial and error and it would appear that in many instances the ideal transportation system consists of what might be termed a co-ordinated rail and highway service. However, the people in Prince Edward Island do not at the moment favour such a method of operation and perhaps it would be wise to conduct what might be termed an experiment.

It has been shown that the highways are not always open for heavy traffic by mid-April. In evidence, Mr. Bird, Manager of the bus line, as shown above, stated: "In the last two years we have gone back on the road on April 25. Prior to that, we have sometimes gone until the first of May or the fifth of May". Another witness, Mr. Earl Kennedy, from the Department of Public Works and Highways of the Province of Prince Edward Island, stated at page 2995 of the transcript that the final restrictions on heavy traffic using the highways over a period of years were lifted on the following dates:

1955, restrictions lifted April 25.
1954, restrictions lifted April 29.
1953, restrictions lifted April 25.
1952, restrictions lifted May 5.
1951, restrictions lifted April 22.
1950, restrictions lifted May 13.

Taking these dates into account, it would appear evident that the application of the railways, so far as it relates to the discontinuance of passenger service from approximately mid-December to mid-April should be from December to May 1st.

After careful consideration of all that was placed before us I am of the opinion that the application should not be granted in full. It is evident that a good many extra trains have to be operated in addition to mixed trains. The preponderance of passengers handled and extra freight trains operated was on the lines between Charlottetown, Summerside and Tignish, Summerside and Borden, and Summerside and Emerald Junction, and it occurs to me that at least for a further period of time the railways should continue the operation of local passenger service on these lines.

The application as relating to the discontinuance of local passenger service on the railway's lines between Charlottetown, Summerside and Tignish is therefore denied. This decision does not, however, preclude the railways from making adjustments in the passenger schedules on the lines in question or perhaps discontinuing some schedules. It merely prohibits the complete discontinuance of local passenger service on those lines.

The railways are entitled to some relief and as it would appear that the public would not be seriously inconvenienced if the local passenger service is discontinued on the balance of the lines in Prince Edward Island, namely, between Charlottetown, Souris and Elmira, Charlottetown and Murray Harbour and Charlottetown and Mount Stewart Junction and Georgetown, the application as relating to those lines is granted, subject to the following conditions.

The operation of the local passenger service may be discontinued except from mid-December to the first of May, provided that, in the event the highways are for any reason impassable prior to mid-December or subsequent to May first in any year, rail service will be provided by the railways until such time as the highways are open for heavy traffic.

Order will go accordingly.

Concluding Note:

It should be understood by all concerned that if, after a reasonable trial of the new method of transportation, it is found to be unsatisfactory to the public, the matter can again be referred to the Board and, on the other hand, if it is proven to be satisfactory it is open for the railways to renew their application with respect to the lines Charlottetown to Summerside and Tignish.

July 13, 1955. H. B. CHASE.

I concur: A. SYLVESTRE.

ORDER No. 86575

In the matter of the application of the Canadian National Railway Company under sections 33, 34, 315 and all other relevant sections of the Railway Act for an Order authorizing the discontinuance of the present local railway passenger service on their Island Division, in Prince Edward Island, during eight months in each year, from approximately mid-April to mid-December:

File No. 27563.461

THURSDAY, the 14th day of July A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Charlottetown, Prince Edward Island, on June 21st and 22nd, 1955, in the presence of Counsel for the Canadian National Railway Company, the Province of Prince Edward Island, the Provincial Legislative Committee of the International Railway Transportation Brotherhoods and the Board of Trade of the Town of Souris, and representatives of the Town of Alberton and the Villages of Tignish and O'Leary, the Board of Trade of the Town of Summerside and the Canadian Legion—

It is ordered

1. That the application of the Canadian National Railway Company to discontinue the operation of local passenger service between Charlottetown, Summerside and Tignish, in the Province of Prince Edward Island be, and it is hereby, dismissed.

2. That the Canadian National Railway Company be, and it is hereby, authorized to discontinue the operation of local passenger service between Charlottetown, Souris, and Elmira, Charlottetown and Murray Harbour and Charlottetown and Mount Stewart Junction and Georgetown from May 1st until December 15th in each year subject to the condition that if prior to December 15th or subsequent to May 1st, the main highways are not open for heavy traffic railway passenger services will be operated.

A. SYLVESTRE,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

August 4, 1955.

CIRCULAR LETTER No. 277

File No. 11026—*re* RAILWAY GRADE CROSSING FUND

Dear Sir:

A number of enquiries have been received with reference to crossing projects which were ordered or authorized by the Board, but which were not in the opinion of the Board completed and paid for in full prior to June 28, 1955.

The Board has accordingly given extended consideration to the policy to be adopted in the exercise of the discretion vested in it by subsection (2) of section 3 of the Act to amend the Railway Act which was given the Royal Assent on the above-mentioned date. The new subsection (7) of section 265 of the Railway Act reads as follows:

> "(7) Where the whole of any work ordered or authorized by the Board prior to the date of the coming into force of this subsection in respect of any one crossing at rail level was, in the opinion of the Board, completed prior to that date and the amount to be applied thereto out of The Railway Grade Crossing Fund was determined by the Board and paid in full prior to that date, no additional amount shall be applied by the Board out of the Fund towards the cost of that work, and where any work so ordered or authorized was, in the opinion of the Board, only partially completed prior to that date or was wholly completed but the amount to be applied thereto out of the Fund was not determined by the Board and paid in full prior to that date, the amount that may be applied by the Board in accordance with this section towards the cost of the whole of that work is such amount, not exceeding the lesser of the amounts mentioned in paragraph (*a*) of subsection (2), as the Board in its discretion determines."

Paragraph (*a*) of subsection (2) referred to in the above-mentioned subsection, reads as follows:

> "(*a*) in the case of a crossing at rail level, sixty per cent of such cost or three hundred thousand dollars, whichever is the lesser, and"

In considering the manner in which and the extent to which it should exercise the discretion vested in it by the above-quoted subsection, the Board had particular regard to the purpose underlying the augmented Grade Crossing Fund. The Board felt that the main object was the maximum promotion of the public safety; that is, the establishment of the most effective safety measures at the greatest number of crossings.

The conclusion was accordingly reached that the amount to be devoted to projects qualifying under subsection (7) should be dependent on the amount required in respect of new projects ordered or authorized by the Board subsequent to June 28, 1955.

It is of course not practicable, so soon after the enactment of the amending legislation, to predict with accuracy the amount of money, if any, which will remain in the Fund after all the required commitments have been made in respect of the new projects.

The Board, therefore, will before the end of the present fiscal year, review the position of the Fund with a view to determining the manner in which and the extent to which any remaining balance should be utilized in respect of applications filed with the Board seeking an increased contribution from the fund towards projects qualifying therefor under subsection (7).

In the meantime, the Board will receive and place on file any applications received with respect to increased contributions toward these prior projects in anticipation of the final review which will take place in January or February, 1956.

Yours very truly,

C. W. RUMP,
Acting Secretary, B.T.C.

ORDER No. 86574

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated June 6, 1955:

File No. 40994·80

THURSDAY, the 14th day of July, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge, dated June 6, 1955, between the Canadian Pacific Railway Company and Canadian Sugar Factories Limited on sugar, refined, carloads, as specified therein, applicable between Picture Butte, Raymond and Taber, in the Province of Alberta, and points in the provinces of Alberta, Manitoba and Saskatchewan, as specified therein, on file with the Board under file No. 40994·80, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 7th day of June, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86606

In the matter of the application of British American Oil Company Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48 as approved by the Board:

File No. 40994·37

WEDNESDAY, the 20th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

WHEREAS British American Oil Company Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of petroleum products, carloads, in tank cars, from St. Boniface, Manitoba, to stations and/or places in the Province of Manitoba as set out in paragraph C(2) of the said Agreed Charge and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby, fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 48 for the transport by the railway companies parties thereto, of petroleum products, carloads, in tank cars, shipped by British American Oil Company Limited from St. Boniface, Manitoba, to stations and/or places in the Province of Manitoba as set out in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall be deemed to have come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86613

In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717·12·4

WEDNESDAY, the 20th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that until further order of the Board, member carriers of the Express Traffic Association of Canada, subject to the jurisdiction of the Board, are hereby authorized to receive for shipment in Canada and Transport via rail express, subject to the provisions of this Order, samples of flammable liquids offered for shipment by Canadian Petrofina Limited.

That the provisions of section 75·655(*d*)of the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service insofar as they apply to flammable liquids, loaded, transported or stored in cars equipped with lighted heaters or where open flame lights or stoves are used, shall not apply to shipments referred to in paragraph 1 hereof, but the following regulations shall be observed:

(*a*) The sample (or samples) shall be packaged by the shipper in a metal can or cans of not more than one gallon capacity, not more than three such metal cans to be enclosed in a wooden box made to one of the following B.T.C. Specifications 15A, 15B, 15C, 16A or 19A.

(*b*) The prescribed "red label" shall be attached by the shipper to the outside wooden box which shall also be plainly marked B.T.C. Permit No. A-28. The top of the box shall be marked "This Side Up" and the words "Gasoline" or "Stove Oil" etc., as appropriate, shall be stencilled on the side.

(*c*) All bills-of-lading, shipping orders or shipping papers issued in lieu thereof shall make reference to the B.T.C. Permit Number.

(*d*) Such samples shall be loaded in the express car in a place that will permit their removal in case of fire or wreck and, if practicable, near the car door.

(*e*) The express company shall take adequate precautions to keep such samples as far away from any source of ignition as possible.

(*f*) Emptied containers returned for re-use shall bear the "Empty Label" (see section 73·413 of Board's Regulations) to indicate that they have been satisfactorily emptied of liquid and/or gas so that no possible hazard exists in the handling thereof.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86624

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of The Transport Act, for approval of an agreed charge dated June 13, 1955:

File No. 40994·81

FRIDAY, the 22nd day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21st, 1939—

It is ordered that the agreed charge dated June 13, 1955, between the Canadian Pacific Railway Company, The Grand River Railway Company and Electric Reduction Company of Canada, Ltd., on Phosphates, viz.: Ammonium, Calcium and Sodium, carloads, as specified therein from Buckingham, Quebec, to points in the Province of Ontario, on file with the Board under file No. 40994·81, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 14th day of June, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86653

In the matter of the application of Silverwood Dairies Limited, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47

TUESDAY, the 26th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

WHEREAS the Applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of canned goods from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby, fixed for Silverwood Dairies Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86654

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated June 15, 1955:

File No. 40994·82

TUESDAY, the 26th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated June 15, 1955, between Canadian National Railways and Imperial Oil Limited on Petroleum Products, carloads, in tank cars only, applicable between Lewisporte, Newfoundland, and Grand Falls, Newfoundland, on file with the Board under file No. 40994·82, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 16th day of June, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86655

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated June 17, 1955:

File No. 40994·83.

TUESDAY, the 26th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated June 17, 1955, between British Columbia Electric Railway Company Limited, Canadian National Railways, Ontario Northland Railway and Alexander Murray & Company Limited on boards or sheets as specified therein, applicable between Donnacona, Quebec, and New Westminster, Vancouver and Victoria, B.C., on file with the Board under file No. 40994·83, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 20th day of June, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86672

In the matter of the application of Sun Oil Company Limited, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 49 as approved by the Board:

File No. 40994·38.

WEDNESDAY, the 27th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

WHEREAS the Sun Oil Company Limited has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 49, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby fixed, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 49 for the transport, by the railway companies parties thereto, of petroleum products, as described in paragraph B of the said Agreed Charge, shipped by the Sun Oil Company Limited from and to stations and/or places as set out in paragraphs C(1) and C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

Order No. 86683

In the matter of the application of Donald A. Chisholm, Limited, Toronto, Ontario, hereinafter called the "Applicant", for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62 as approved by the Board:

File No. 40994·47.

THURSDAY, the 28th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

WHEREAS the applicant has made application under subsection 8 of section 32 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of canned goods and preserves from and to stations and/or places as set out in Agreed Charge C.T.C. (AC) No. 62, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that charges be, and they are hereby, fixed for Donald A. Chisholm, Limited, the same as agreed charges published in Agreed Charge C.T.C. (AC) No. 62 for the transport, by the railway companies parties thereto, of the products as described in paragraph B of the said Agreed Charge, shipped by the said company from the stations and/or places specified in paragraph C(1) to stations and/or places specified in paragraph C(2) thereof, subject to and upon the same terms and conditions contained in the said Agreed Charge; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

Order No. 86720

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 83:

File No. 40994·71.

FRIDAY, the 5th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 83, on file with the Board under file No. 40994·71, be, and it is hereby, approved; and that the date as from which the said Supplement No. 7 shall be deemed to have become operative is hereby fixed as July 5, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86739

In the matter of the application of the Canadian Freight Association under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated June 30, 1955:

File No. 40994·85.

TUESDAY, the 9th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated June 30, 1955, between the Canadian National Railway, the Canadian Pacific Railway Company and Canadian Chemical & Cellulose Company, Limited and Canadian Chemical Company, Limited, on acetate staple fibre and acetate yarn, carloads, as specified therein, applicable between Clover Bar, Alberta and Sherbrooke, Quebec, on file with the Board under file No. 40994·85, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 4th day of July, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JUNE, 1955

Railway Accidents	219	Killed	16	Injured	250
Level Crossing Accidents....	24	Killed	9	Injured	36
Total.....	243		25		286

	Killed	*Injured*
Passengers	—	67
Employees	7	170
Others	18	49
Total.....	25	286

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NOVA SCOTIA
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
		QUEBEC
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. F-84222.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 181-476.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 507-476.
		ONTARIO
2	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Mich. BT-4499.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 33-239-A.
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Mich. DN-1820.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-51-091.
—	4	Track motor car struck by automobile. Licence not given.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 3171-C.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 8196-C.
—	2	Automobile ran into side of train. Licence not given.
		MANITOBA
3	5	Automobile ran into side of train. Licence: Man. 91-C-38.
—	1	Track motor car struck by automobile. Licence: Man. 566-C-72.
—	1	Automobile drove onto crossing in front of approaching Budd Car and was struck. Licence: Man. 96-C-42.
		SASKATCHEWAN
—	1	Automobile ran into side of train. Licence: Sask. 113-452.

Killed	*Injured*	ALBERTA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 109-506.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. TF-998.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. ML-794.
—	4	Automobile ran into side of train. Licence: Alta. HV-999.
—	1	Automobile drove onto crossing in front of approaching train and was was struck. Licence: Man. 96-C-42.
		BRITISH COLUMBIA
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: BC 231-350.

Of the 24 accidents at highway crossings, 18 occurred at unprotected crossings, and 6 at protected crossings. 18 occurred after sunrise and 6 after sunset.

OTTAWA, Ontario, August 12, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86562 July 14—Authorizing the C.N.R. to open for the carriage of traffic their line between Hillsport and Geco Mines, District of Thunder Bay, Ont.

86563 July 14—Authorizing the Ontario Department of Highways to construct Highway No. 17 across the C.P.R. by means of an overhead bridge, County of Renfrew, Ontario, at mileage 90·15 Chalk River Subdivision.

86564 July 14—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Ontario Northland Transportation Commission.

86565 July 14—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Guevremont.

86566 July 14—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the North Gosfield Municipal Telephone System.

86567 July 14—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Clarence Telephone Company Limited.

86568 July 14—Approving Service Station Application between The Bell Telephone Company of Canada and Mr. James Hodgins, Proprietor of the Danford Lake Telephone System.

86569 July 14—In the matter of the application of Canadian Industries (1954) Limited in regard to shipments of Tri-Nitro-Rescorcinol.

86570 July 14—Authorizing the C.P.R. to replace the timber bridge at mileage 84·1 Neudorf Subdivision, Man., with corrugated metal pipe culverts and fill.

86571 July 14—In the matter of the general terms and conditions under which The Bell Telephone Company of Canada shall furnish to the public the telephone service and equipment which it provides.

86572 July 14—Authorizing the British Columbia Department of Highways to construct the Trans Canada Highway across the C.P.R. by means of a subway at mileage 87·03 Thompson Subdivision, B.C.

86573 July 14—Permitting the removal of slow order at C.P.R. crossing at mileage 12·2 Estevan Subdivision, Man.

86574 July 14—Approving agreed charge between the C.P.R. and Canadian Sugar Factories Limited on sugar, refined, carloads, as specified therein.

86575 July 14—In the matter of the application of the C.N.R. for an Order authorizing the discontinuance of the present local railway passenger service on their Island Division, P.E.I., during eight months in each year.

86576 July 15—In the matter of approval of plan submitted to the C.N.R. by British American Oil Company, Limited, showing the proposed location of unloading point at Brockville, Ont.

86577 July 15—In the matter of the application of the C.P.R. on behalf of Gibson Petroleum Company, Limited, for temporary permission to load crude oil into tank cars from tank trucks at Eckville, Alta.

86578 July 15—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under sections 3 and 8.

86579 July 15—In the matter of approval of plan submitted to the Northern Alberta Railway Company, by Imperial Oil, Limited, showing the proposed location of storage tanks, etc., at Falher, Alta.

86580 July 15—Approving the location of the C.N.R. station shelter at Bronson, N.B.

86581 July 15—Authorizing the C.N.R. to remove the station agent at Eureka, N.S.

86582 July 15—In the matter of the application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Sinclair, Man.

86583 July 15—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Crandall, Man.

86584 July 15—Approving operation of C.P.R. trains over its Harrowby Ballast Pit spur, at mileage 88·81 Bredenbury Subdivision, Man.

86585 July 15—In the matter of Order No. 86394, which authorized the C.P.R. to construct its Harrowby ballast pit spur at mileage 88·81 Bredenbury Subdivision, Man.

86586 July 15—Authorizing the C.N.R. to construct a siding to serve the Edmonton Journal, Edmonton, Alta.

86587 July 15—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St. Methode.

86588 July 15—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St. Evariste.

86589 July 15—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Union Telephone Company Limited.

86590 July 18—Authorizing the C.N.R. to remove the station agent at Ferrona Junction, N.S.

86591 July 18—In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act; and Order No. 86487 approving tolls published in Tariff C.T.C. No. 1515 filed by the Canadian Freight Association.

86592 July 18—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 6 to Agreed Charge C.T.C. (AC) No. 83.

86593 July 18—Authorizing the Quebec North Shore and Labrador Railway Company to make signal changes between mileage 40 and mileage 60, Que.

86594 July 18—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the Northern Alberta Railways Company tracks at Peace River, Alta.

86595 July 19—In the matter of the application of C.N.R., for exemption of certain bridges, tunnels, erections and structures from the operation of subsection (1), of section 253 of the Railway Act.

86596 July 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil, Limited, showing proposed location of storage tank, etc. at Atikokan, Ont.

86597 July 19—Authorizing the Ontario Department of Highways to construct Highway No. 401 across the C.P.R., by means of an overhead bridge at mileage 17·25 Goderich Subdivision, Ont.

86598 July 19—Authorizing the Quebec Department of Roads to relocate the highway where it crosses the C.N.R. at mileage 48·4 Montmagny Subdivision, Que.

86599 July 19—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Osoyoos Subdivision, B.C.

86600 July 19—Permitting the removal of slow order at the crossing of the highway and the Esquimalt and Nanaimo Railway at Cobble Hill, B.C., mileage 31·1 Victoria Subdivision.

86601 July 19—In the matter of approval of plan submitted to the C.N.R., by McColl-Frontenac Oil Company, Limited, showing proposed location of storage tanks, etc. at St. Basil, N.B.

86602 July 19—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under sections 3 and 8.

86603 July 19—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Maritime Coal, Railway and Power Company, Limited, under section 8.

86604 July 20—Authorizing Don Mills Developments Limited to construct a sewer pipe across and under the pipe line of the Trans Northern Pipe Line Company at Bond Avenue, in the Township of North York, Ont.

86605 July 20—Authorizing the Don Mills Developments Limited, to construct a transite pipe sewer across and under the pipe line of the Trans Northern Pipe Line Company at Overland Drive, Township of North York, Ont.

86606 July 20—In the matter of the application of British American Oil Company Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 48.

86607 July 20—Dismissing the application of the C.N.R. for authority to remove the agent at Sperling, Man.

86608 July 20—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under section 8.

86609 July 20—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near the C.P.R. tracks at Boissevain, Man.

86610 July 20—Approving proposed location of storage tank, etc. of McColl-Frontenac Oil Company Limited, near the C.P.R. tracks at North Battleford, Sask.

86611 July 20—Authorizing the Village of Senneterre, Que., to construct Third Avenue West across the C.N.R. by means of an overhead bridge in the Village of Senneterre, Que.

86612 July 20—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along the public highway in the County of Kent, Ont.

86613 July 20—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

86614 July 20—Authorizing the C.P.R. to construct a spur and yard track lead of the Scarborough Industrial Spur across Bertrand Avenue, Township of Scarborough, County of York, Ont.

86615 July 20—Authorizing the C.P.R. to construct a siding to serve John Inglis Company, Limited and Somerville Limited, across Crockford Boulevard, Township of Scarborough, County of York, Ont.

86616 July 20—Authorizing the C.N.R. to reconstruct the bridge at mileage 71·5 Grand'Mere Subdivision, Que.

86617 July 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Kamloops, B.C.

86618 July 20—Approving proposed location of storage tank, etc. of Superior Propane Limited, near the C.N.R. tracks at Walkerton, Ont.

86619 July 21—In the matter of approval of plan submitted by the C.N.R., showing the proposed location of storage tank, etc. at Capreol, Ont.

86620 July 21—In the matter of the application of D'Arcy Cropp, of Niagara Falls, Ont., Benson-Leavens Canning Company of Picton, Ont., Steamships Forwarding Company Limited of Montreal, Que., and others for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62. (canned goods and Preserves)

86621 July 21—Permitting the removal of slow order at C.P.R. crossing, second east of the station at Marwayne, Alta.

86622 July 21—In the matter of tariffs filed under the provisions of the Maritime Freight Rates Act.

86623 July 22—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86624 July 22—In the matter of application of the Canadian Freight Association, for approval of an agreed charge dated June 13, 1955, on Phosphates carloads, from Buckingham, Que., to points in the Province of Ontario.

86625 July 22—Authorizing the C.N.R. to operate through the interlocking at the crossing of the C.P.R. and the C.N.R. Federal District Commission's connection, from Hawthorne to Wass, Ont.

86626 July 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Amqui, Que.

86627 July 22—Permitting the removal of slow order at C.P.R. crossing of Regent Street, Sudbury, Ont.

86628 July 22—Requiring the C.P.R. to install certain protection at the crossing of 82nd Avenue, City of Edmonton, Alta.

86629 July 22—Authorizing the C.P.R. to operate its trains at a speed of twenty-five miles per hour over the crossing at Alexander Street, Sherbrooke, Que.

86630 July 22—In the matter of approval of plan submitted to the C.P.R., by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Princeton, B.C.

86631 July 22—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Shackleton, Sask.

86632 July 22—Permitting the removal of slow order at C.N.R. crossing of Highway No. 49 at Sturgis, Sask.

86633 July 22—In the matter of the application of the City of Regina, Sask., for installation of automatic protection at the crossing of the C.P.R. and the intersection of Victoria Avenue and McDonald Street, Regina, Sask.

86634 July 22—In the matter of improved protection at the crossing of Norfolk Street (Highway No. 24) and the C.N.R. in the Town of Simcoe, Ont.

86635 July 22—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 14, at mileage 170·3 Willingdon Subdivision, Alta.

86636 July 22—Authorizing the C.N.R. to remove the caretaker at Udney, Ont.

86637 July 22—Dismissing the application of the C.N.R. for authority to remove the station agent at Willowbrook, Sask.

86638 July 22—Directing the Village of Edgerton, Alta., to improve the sight lines at the crossing of District Road and the C.N.R., west of the station at Edgerton, Alta.

86639 July 22—In the matter of approval of plan submitted to the C.P.R., by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Middleton, N.S.

86640 July 22—Approving proposed location of storage tanks, etc. of the British Columbia Power Commission, near the C.N.R. tracks at McBride, B.C.

86641 July 22—In the matter of approval of plan submitted to the C.N.R. by Lampman Co-Operative Association, Limited, showing the proposed location of storage tanks, etc. at Lampman, Sask.

86642 July 22—In the matter of the accident on February 9, 1955, at the crossing of the C.N.R. and Davis Drive, in the Town of Newmarket, Ont.

86643 July 22—In the matter of the application of the C.P.R. and the Alberta Railway and Irrigation Company, for an Order recommending for sanction a certain agreement whereby the railways of the Alberta Railway and Irrigation Company were leased to the C.P.R.

86644 July 22—In the matter of approval of plan submitted to the C.P.R., by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Vernon, B.C.

86645 July 22—In the matter of the application of the City of Montreal, Quebec, for an Order authorizing automatic protection at crossing of C.N.R. and O'Brien Boulevard.

86646 July 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Elphinstone, Manitoba.

86647 July 25—In the matter of the application of the Alberta Department of Highways and Transportation for amending Order No. 79110, dated June 3, 1952, which authorized the construction of an overhead bridge across the C.P.R. at Mileage 1·6 Indian Head Subdivision.

86648 July 25—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Cumberland Railway and Coal Company under Section 8.

86649 July 25—In the matter of the application of the Township of Harwich, Ontario, for installation of automatic protection at crossing of The Chesapeake & Ohio Railway Company and Park Avenue, in the City of Chatham, Ontario.

86650 July 25—In the matter of Order No. 84968, dated November 16, 1954, which authorized the Department of Public Works of the Province of British Columbia, to construct the Trans Canada Highway across the right-of-way of the C.P.R. by means of an overhead bridge at Mileage 70·85 Shuswap Subdivision, B.C.

86651 July 25—Authorizing the C.P.R. to make changes in the operating circuits of the protection at the crossing of its railway and Highway No. 69, near Lake St. Joseph, Ontario.

86652 July 25—Authorizing the C.P.R. to replace the present interlocker at the crossing of its railway and the C.N.R. near Wadena, Saskatchewan.

86653 July 26—In the matter of the application of Silverwood Dairies Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62.

86654 July 26—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated June 15, 1955. (Petroleum products in tank cars).

86655 July 26—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated June 17, 1955. (boards or sheets).

86656 July 26—Authorizing the Township of Camden East, Ontario to improve the sight lines at the crossing of the highway and the C.P.R. east of Lens Station, Ontario.

86657 July 26—In the matter of the application of Westcoast Transmission Company Limited for an Order approving plan No. RW-2800, showing the location of Westcoast Transmission Company Limited within the New Westminster Land District, Province of British Columbia.

86658 July 26—Authorizing the C.N.R. to use and operate the bridge at Mileage 54·82 Alexandria Subdivision, Quebec.

86659 July 26—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 1203 filed by the Dominion Atlantic Railway Company.

86660 July 26—Setting down for hearing the application of Westspur Pipe Line Company for authority to construct a pipe line for the transportation of crude oil from a point in the vicinity of Midale, Saskatchewan, to a point in the vicinity of Cromer, Manitoba.

86661 July 26—Setting down for hearing the application of S. & M. Pipelines Limited for authority to construct a pipe line for the transportation of crude oil from the vicinity of Midale, Saskatchewan, to Cromer, Manitoba.

86662 July 26—Setting down for hearing the application of Trans-Prairie Pipelines of Canada, Ltd, for authority to construct a pipe line for the transportation of crude oil from a point in the vicinity of Midale, Saskatchewan, to Cromer, Manitoba.

86663 July 26—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86664 July 26—Authorizing the Saskatchewan Department of Highways to construct the highway across the C.P.R. at Mileage 89·91 Prince Albert Subdivision.

86665 July 26—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

86666 July 27—Amending Order No. 83399, dated March 22, 1954, in the matter of the application of the Ontario Department of Highways for an Order authorizing the C.N.R. to construct the diversion of their Newmarket Subdivision.

86667 July 27—Authorizing the C.N.R. to widen the crossing of their railway and Clarkson Road, Township of Toronto, Ontario, at Mileage 16·09 Oakville Subdivision.

86668 July 27—In the matter of the application of The Toronto Harbour Commissioners for an Order authorizing rearrangement of their trackage on the south side of Queen's Quay East in the City of Toronto, Ontario.

86669 July 27—Permitting the removal of slow order at C.N.R. crossing, second east of the station at Burlington, Ontario.

86670 July 27—Permitting the removal of slow order at C.P.R. crossing near High River, Alberta.

86671 July 27—In the matter of the application of the C.N.R. and the New Brunswick Department of Public Works for an Order amending Order No. 74893, dated July 18, 1950, which authorized the construction of a subway at Mileage 77·4 Harcourt Subdivision, New Brunswick.

86672 July 27—In the matter of the application of Sun Oil Company Limited for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 49.

86673 July 27—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under Sections 3 and 8.

86674 July 27—Authorizing the Chesapeake and Ohio Railway Company to construct two additional railway tracks across County Road No. 19 in the 7th Concession, Township of Sandwich South, Ontario.

86675 July 27—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.P.R. under Section 8.

86676 July 27—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under Sections 3 and 8.

86677 July 27—Authorizing the C.N.R. to improve the sight lines at the crossing of Highway No. 8 at Mileage 5·78 Nashwaak Subdivision, New Brunswick.

86678 July 28—Requiring the Great Northern Railway Company to install certain protection at the crossing of Willingdon Avenue, District of Burnaby, British Columbia.

86678 July 28—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Wilcox, Saskatchewan.

86680 July 28—Approving proposd location of storage tanks, etc. near C.P.R. tracks at West Toronto Street, Toronto, Ontario.

86681 July 28—In the matter of the application of the C.N.R. on behalf of Dome Exploration (Western) Limited, for an extension of temporary permit to load crude oil into tank cars from tank trucks at Mileage 0·25 Drumheller North Branch, near Drumheller, Alberta.

86682 July 28—In the matter of the application of the C.N.R. for authority to remove the station agent and appoint a caretaker at Gibbons, Alberta.

86683 July 28—In the matter of the application of Donald A. Chisholm, Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge C.T.C. (AC) No. 62. (canned goods and preserves).

86684 July 29—In the matter of the application of Canadian Industries (1954) Limited in regard to shipments of Tri-Nitro-Rescorcinol.

86685 July 29—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86686 July 29—Authorizing the Canadian Petrofina Company Limited to construct its pipe line across the C.N.R. in the City of Montreal, Quebec, at Mileage 1·70 Marien Avenue Spur, Longue Pointe Subdivision.

86687 July 29—In the matter of the application of the C.N.R. for approval of plan showing proposed express building to be constructed adjacent to their station at St. Lambert, Quebec.

86688 July 29—Authorizing the Montreal and Southern Counties Railway Company to construct a new connection along Riverside Drive at St. Lambert, Quebec.

86689 July 29—Extending the time within which certain protection is to be installed by the C.N.R. at Cote Noire Road at Mileage 69·51 St. Hyacinthe Subdivision.

86690 Aug. 2—In the matter of the application of the C.N.R. for authority to remove the station agent and appoint a caretaker at Graysville, Manitoba.

86691 Aug. 3—In the matter of the application of The Bell Telephone Company of Canada for aproval of Traffic Agreement between The Bell Telephone Company of Canada and La Corporation de Telephone de Quebec.

86692 Aug. 3—In the matter of the application of the Municipal Council of the County of Quebec, Loretteville, Quebec, for installation of automatic protection at C.N.R. crossing of St. Ambroise Street.

86693 Aug. 3—Authorizing the Parish of Ste. Famille de Boucherville, Quebec, to construct the highway across the C.N.R. in the Parish of Ste. Famille, County of Chambly, Quebec.

86694 Aug. 3—Rescinding Order No. 85570, dated February 14, 1955, in the matter of the application of the Burrard Inlet Tunnel and Bridge Company.

86695 Aug. 3—In the matter of the application of the Burrard Inlet Tunnel and Bridge Company for a report to the Governor in Council respecting pedestrian and vehicular and other like traffic on the Second Narrows Bridge.

86696 Aug. 3—In the matter of the application of the Municipality of Ste. Agathe des Monts, Quebec, for installation of protection at the crossing of the C.P.R. and Val David Road north of Prefontaine Station.

86697 Aug. 3—Authorizing The Bell Telephone Company of Canada to publish Order No. 86571, dated July 14, 1955, in the Canada Gazette.

86698 Aug. 3—Authorizing the City of Saskatoon, Saskatchewan, to construct Taylor Street across the C.N.R. in the City of Saskatoon, Sask.

86699 Aug. 3—Approving proposed location of storage tanks, etc. of Champlain Oil Products Limited, near C.N.R. tracks at Wieland, Quebec.

86700 Aug. 3—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the Northern Alberta Railways Company tracks at Wanham, Alberta.

86701 Aug. 3—In the matter of the application of the C.N.R. on behalf of Gibson Petroleum Marketing Company Limited for temporary permission to load crude oil into tank cars from tank trucks at Munson, Alberta.

86702 Aug. 3—In the matter of approval of plan showing proposed location of storage tanks, etc. near C.N.R. tracks at St. Boniface, Manitoba.

86703 Aug. 3—Authorizing the City of Saskatoon, Saskatchewan, to construct Ruth Street across the C.N.R.

86704 Aug. 3—Authorizing the C.P.R. to operate their trains through the interlocking at the crossing of their railway and the C.N.R,. near Young, Saskatchewan.

86705 Aug. 3—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the Union Telephone Company Limited.

86706 Aug. 3—Approving operation of C.N.R. trains over private siding serving Emile Hamel & Fils Ltee, at St. Felicien, Quebec.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, SEPTEMBER 15, 1955 No. 12

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In the matter of the application of the Corporation of the Village of Senneterre requesting the construction of a viaduct over the tracks of the Canadian National Railways on Third Avenue West, Senneterre, P.Q.

File No. 42114

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Held at:

Senneterre, P.Q., on May 12th, 1955.

Appearances:

J. W. G. MACDOUGALL and EDMOND D. PINSONNEAULT, for the Canadian National Railways.

C. N. BARBES, for the Corporation of the Village of Senneterre, P.Q.

JUDGMENT

SYLVESTRE, *Deputy Chief Commissioner:*

The Corporation of the Village of Senneterre made its first application for a grade separation at Third Street West in 1939. The reasons given at that time in support of the application were as follows:

1. Heavy traffic.
2. Blocking of the crossing when trains stopped at the station.
3. Danger to children when travelling to and from school.
4. Suitability of location for the construction of an overhead bridge.

The Railways considered that the expenditure was not warranted, and the Municipality's application was dropped.

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In 1946 the Municipality renewed its application, and the Railways then offered to contribute the sum of $2,000.00 towards the cost of an overhead bridge, provided that the two existing level crossings east of the station were closed.

No further development occurred until November 15, 1953, when a new application was received from the Municipality for authority to construct an overhead bridge at Third Street West.

A traffic census accompanying the Railways' submission on the application indicated a considerable railway traffic at the crossing, especially shunting movements. In their submission the Railways renewed their offer to contribute the sum of $2,000.00 towards this project.

The crossing at Third Street West was originally constructed by the Railway Company for the convenience of its patrons, and gradually came into public use as a means of connection between the northern and southern parts of the Village. The crossing was constructed and used by the public before the Canadian Government Railways were placed under the Board's jurisdiction. This crossing must, therefore, be considered a public crossing, although it was never authorized by a Board's Order. The elimination of this level crossing would permit a contribution from the Railway Grade Crossing Fund towards the cost of the proposed overhead bridge.

The Canadian National Railways have no objection to the construction of the overhead bridge, provided that their contribution is limited to the sum of $2,000.00. This amount of $2,000.00, which was offered in 1946, was based on the cost of maintenance of the grade crossing, of which the Railways would be relieved through the construction of the overhead bridge.

The Board held a hearing on this matter on May 12, 1955, at Senneterre, and evidence produced at the hearing, as well as information on the Board's file, indicates that the benefits to the Railways resulting from the closing of the grade crossing at Third Street West will be far greater than represented by the amount offered by the Railways.

Switching movements are very frequent over the crossing and must be protected by a member of the train crew. Trains standing at the station must stay clear of the crossing, with the result that passengers must walk a great distance from the station to board the train, which is a considerable inconvenience in bad weather. Third Street West crosses several tracks.

In view of the above we are of the opinion that an overhead bridge should be constructed at Third Street West.

The Railways will be relieved of the maintenance of the multi-track crossing, and the elimination of this crossing will permit the Railways to have their passenger trains stopped at the station in such a way that full advantage will be obtained of the Railways' facilities intended for the handling of passenger traffic.

The cost of the proposed overhead bridge has been estimated at $97,600.00. The Board can contribute 60% of this cost, or $58,560.00. Considering the benefits that the Railways will derive as the result of the elimination of the Third Street West grade crossing, we are of the opinion that the Railways should contribute the sum of $15,000.00. The remainder of the cost of construction, as well as the cost of maintenance, would have to be borne by the Municipality. An Order will issue accordingly.

I concur: H. B. CHASE. A. SYLVESTRE.
JULY 15, 1955.

ORDER No. 86611

In the matter of the application of the Corporation of the Village of Senneterre, in the Province of Quebec, requesting the construction of a viaduct over the tracks of the Canadian National Railways on Third Avenue West, Senneterre, P.Q., mileage 138·1 Oskelaneo Subdivision:

File No. 42114

WEDNESDAY, the 20th day of July, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Senneterre, P.Q., on May 12th, 1955, in the presence of Counsel for the Canadian National Railways and the Corporation of the Village of Senneterre—

It is ordered

1. That the Village of Senneterre, in the Province of Quebec, be, and it is hereby, authorized to construct Third Avenue West across the tracks of the Canadian National Railways by means of an overhead bridge in the Village of Senneterre, in the Province of Quebec, mileage 138·1 Oskelaneo Subdivision.

2. That the overhead bridge hereby authorized be constructed in accordance with the provisions of General Order No. 589; detailed drawings of the structure to be submitted for the approval of an Engineer of the Board.

3. That sixty per cent of the cost of construction of the overhead bridge hereby authorized, not exceeding, however, the sum of $58,560.00, be paid out of the Railway Grade Crossing Fund, $15,000.00, by the Canadian National Railways, and the remainder of the cost of construction, as well as the cost of maintenance, be borne and paid by the Corporation of the Village of Senneterre.

4. That as soon as the said overhead bridge is opened for highway traffic the Canadian National Railways close, within the limits of their right of way the level crossing of their railway and the highway at mileage 138·16 Oskelaneo Subdivision, in the Province of Quebec.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

(Traduction)

LA COMMISSION DES TRANSPORTS DU CANADA

En ce qui concerne la requête déposée par la Corporation du village de Senneterre portant sur la construction d'un pont surélevé au-dessus de la voie ferrée des Chemins de fer Nationaux du Canada, Troisième rue ouest, à Senneterre (P.Q.)

Dossier nº 42114

Devant:

ARMAND SYLVESTRE, C.R., *Commissaire en chef suppléant.*

H. B. CHASE, C.B.E., *Commissaire.*

Entendu à:

Senneterre (P.Q.), le 12 mai 1955.

Ont comparu:

J. W. G. MACDOUGALL et EDMOND D. PINSONNEAULT, pour les Chemins de fer nationaux.

C. N. BARBES, pour la Corporation du village de Senneterre (P.Q.)

JUGEMENT

SYLVESTRE, *Commissaire en chef suppléant:*

La Corporation du village de Senneterre a déposé sa première requête relative à un étagement de voie à la Troisième rue ouest en 1939. Les raisons données alors pour étayer cette requête sont les suivantes:

1. La circulation intense.
2. L'embouteillage au passage à niveau lors de l'arrêt des trains en gare.
3. Le danger auquel sont exposés les écoliers à l'entrée et à la sortie des classes.
4. Un emplacement bien adapté à la construction d'un pont surélevé.

Les Chemins de fer Nationaux du Canada avaient jugé que la dépense envisagée n'était pas justifiée et la requête de la Corporation avait été classée.

En 1946, la Municipalité a de nouveau présenté sa requête et les Chemins de fer ont alors offert de contribuer la somme de $2,000 aux frais de construction d'un pont surélevé, à la condition que les deux passages à niveau existants à l'est de la gare soient fermés.

La question en est restée là jusqu'au 15 novembre 1953, alors que la Corporation a déposé une autre requête demandant l'autorisation de construire un pont surélevé à la Troisième rue ouest.

Un relevé statistique sur la circulation accompagnant l'exposé des Chemins de fer relatif à cette requête indiquait une circulation ferroviaire considérable à ce passage à niveau, surtout pendant les manœuvres de triage. Dans leur exposé, les Chemins de fer ont de nouveau offert de contribuer la somme de $2,000 à la réalisation de ce projet.

Le passage à niveau de la Troisième rue ouest a d'abord été construit par la compagnie de chemin de fer à l'intention de ses usagers, puis il est devenu voie de communication publique entre les parties nord et sud du village. Le passage à niveau a été construit et utilisé par le public avant que les Chemins

de fer Nationaux du Canada soient soumis à la juridiction de la Commission. Ce passage à niveau doit donc être considéré comme un passage public bien qu'aucune ordonnance de la Commission ne l'ait jamais autorisé. La suppression de ce passage à niveau permettrait à la Caisse des passages à niveau de contribuer aux frais de construction du pont surélevé projeté.

Les Chemins de fer Nationaux du Canada ne s'opposent pas à la construction du pont surélevé, à la condition que leur contribution se limite à $2,000. Cette somme, qui a été proposée en 1946, se fondait sur les frais d'entretien du passage à niveau dont les chemins de fer seraient allégés en raison de la construction du pont surélevé.

La Commission a tenu à ce sujet une audience à Senneterre, le 12 mai 1955. Les témoignages déposés à cette audience et les renseignements contenus dans les dossiers de la Commission indiquent que les avantages que les chemins de fer retireront de la fermeture du passage à niveau de la Troisième rue ouest seront bien supérieurs aux avantages représentés par la somme que proposent les chemins de fer.

Les manœuvres d'aiguillage qui sont très fréquentes sur ce passage à niveau nécessitent la présence d'un employé de chemin de fer pour assurer la protection du public. Les trains en gare sont tenus de dégager le passage à niveau et il en résulte que les voyageurs ont à parcourir une distance assez grande depuis la gare jusqu'à leurs wagons, ce qui est assez désagréable lorsqu'il fait mauvais temps. La Troisième rue ouest traverse plusieurs voies ferrées.

En raison des considérations précitées, nous sommes d'avis qu'un pont surélevé devrait être construit à la Troisième rue ouest.

Les Chemins de fer seront dispensés de l'entretien du passage à niveau à voies multiples dont la suppression leur permettra de faire arrêter les trains à la gare de façon à assurer au maximum les services offerts aux voyageurs.

Le coût du pont projeté est estimé à $97,600. La Commission peut en assumer les 60 p. 100, soit $58,560. Compte tenu des avantages que les Chemins de fer retireront de la suppression du passage à niveau de la Troisième rue ouest, nous sommes d'avis que les Chemins de fer devraient contribuer la somme de $15,000. Le reliquat des frais de construction et d'entretien seraient à la charge de la Corporation. Une ordonnance sera rendue en conséquence.

A. SYLVESTRE.

J'agrée,
H. B. CHASE.
Le 15 JUILLET 1955.

ORDONNANCE N° 86611

En ce qui concerne la requête déposée par la Corporation du village de Senneterre dans la province de Québec, portant sur la construction d'un pont surélevé au-dessus de la voie ferrée des Chemins de fer Nationaux du Canada, Troisième rue ouest à Senneterre (P.Q.), borne milliaire 138·1, subdivision d'Oskelaneo.

Dossier n° 42114

Le MERCREDI 20 juillet 1955.

A. SYLVESTRE, C.R., *Commissaire en chef suppléant.*

H. B. CHASE, C.B.E., *Commissaire.*

Après lecture de la requête à une séance de la Commission tenue le 12 mai 1955 à Senneterre (P.Q.) en présence des avocats des Chemins de fer nationaux du Canada et la Corporation du village de Senneterre,

Il est ordonné:

1. Que le village de Senneterre soit, et est par les présentes, autorisé à construire la Troisième rue ouest de façon à franchir la voie ferrée des Chemins de fer Nationaux du Canada au moyen d'un pont surélevé dans le village de Senneterre dans la province de Québec, borne milliaire 138·1, subdivision d'Oskelaneo.

2. Que le pont surélevé autorisé par les présentes soit construit conformément aux dispositions de l'ordonnance générale n° 589, des plans détaillés de l'ouvrage devant être soumis à l'approbation d'un ingénieur de la Commission.

3. Que 60 p. 100 des frais de construction du pont surélevé autorisé par les présentes, ne dépassant pas, toutefois, la somme de $58,560, soient prélevés sur la Caisse des passages à niveau, que $15,000 soient versés par les Chemins de fer Nationaux du Canada et que le reliquat des frais de construction, ainsi que les frais d'entretien soient payés par la Corporation du village de Senneterre.

4. Que les autorités des Chemins de fer Nationaux du Canada ferment, dans les limites de leur emprise, le passage à niveau de la route sur leur voie ferrée à la borne milliaire 138·16, subdivision d'Oskelaneo, dans la province de Québec, aussitôt que ledit pont surélevé sera ouvert à la circulation.

HUGH WARDROPE,
Commissaire en chef adjoint.
La Commission des transports du Canada.

GENERAL ORDER NO. 812

In the matter of section 272 of the Railway Act, and general regulations regarding pipe crossings under railways.

File No. 9473

TUESDAY, the 12th day of July, A.D. 1955.

A SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

In pursuance of the powers conferred upon the Board by sections Nos. 33, 34 and 272 of the Railway Act, and of all other powers possessed by the Board in this behalf—

It is ordered

1. That the regulations hereto annexed under the heading "Standard Regulations Regarding Pipe Crossings, under Railways" be, and they are hereby made and adopted in regard to the laying and maintaining of sewer pipes, water pipes, pipes for oil and other flammable or highly volatile liquids and pipes for natural or manufactured gas under railways subject to the jurisdiction of the Board.

2. That any reference in any Order of the Board to "Standard Regulations Regarding Pipe Crossings under Railways" shall be deemed to be a reference to the regulations hereby made and adopted.

3. That every Order of the Board granting leave to lay, construct or maintain any pipe or pipes crossing under any railway subject to the jurisdiction of the Board shall be deemed to be, unless otherwise expressed, an Order for leave to lay, construct or maintain the same under and according to the said regulations, which regulations shall be considered as embodied in any such Order without specific reference thereto, subject, however, to such change or variation therein as shall be stated in such Order.

4. That General Orders Nos. 592 and 745 be, and they are hereby, rescinded.

STANDARD REGULATIONS REGARDING PIPE CROSSINGS UNDER RAILWAYS

NOTE: These regulations shall apply unless the Board directs or permits a departure therefrom in respect to any particular crossing or crossings.

SEWER PIPES

1. (*a*) Sewer pipes under railway tracks shall be of sufficient strength to withstand the interior pressure and the exterior loading, and shall be properly connected at the joints, and the highest point of the pipe shall be below frost line, but not less than four (4) feet below the base of rail, for the full width of the railway right-of-way.

(*b*) Sewer pipes under railway tracks shall be constructed of hard brick laid in cement mortar, or standard glazed tile, or reinforced concrete, or corrugated metal, or other material which is satisfactory to the railway company.

(*c*) If standard glazed tile pipe or hard brick is used, the joints must be properly made with cement mortar and the pipe under every track must be encased in concrete, reinforced where necessary, a minimum of four (4) inches thick.

(*d*) Encasement where required shall extend a minimum distance of four (4) feet plus the depth of cover below base of rail in feet from the centre line on each side of single track, or four (4) feet plus the depth of cover in feet beyond the centre line of outside track, measured at right angles.

WATER PIPES

2. (*a*) Water pipes under railway tracks shall be constructed of cast iron or steel, or other material satisfactory to the railway company. Such pipes shall be of sufficient strength to withstand the interior pressure and exterior loading, and shall be properly connected at the joints, and the highest point of the pipe shall be below frost line, but not less than four (4) feet below the base of rail, for the full width of the railway right-of-way.

(*b*) Where required, an encasing pipe with ends left open and of sufficient strength to withstand exterior loading shall be used. The minimum length of such encasing pipe shall comply with Section 1 (*d*).

(*c*) An accessible emergency valve shall be installed on the carrier pipe on the pressure side of the crossing, if required.

PIPES CARRYING OIL OR OTHER FLAMMABLE OR HIGHLY VOLATILE LIQUIDS, OR NATURAL GAS, OR MANUFACTURED GAS AND UNDER PRESSURE NOT EXCEEDING 100 POUNDS PER SQUARE INCH

3. (*a*) Such pipes under railway tracks shall be constructed of Standard Pipe, or other material satisfactory to the railway company, properly fastened at the joints, and the top of the pipe or encasing pipe shall be not less than four (4) feet below the base of rail, or two and one-half ($2\frac{1}{2}$) feet below the bottom of the right-of-way ditch, or natural ground surface, whichever provides the lowest elevation.

(*b*) Where required, an encasing pipe of sufficient strength to withstand exterior loading shall be installed, extending the entire width of embankment or for such additional distance as may be required. Where encasing pipe is required, the minimum length shall be measured between points ten (10) feet from the centre line of single track or ten (10) feet beyond the centre line of outside track and perpendicular thereto.

(*c*) In the event that a pipe line constructed prior to the date of this Order is required to be operated at a pressure exceeding forty-five (45) pounds per square inch, application shall be made to the Board, with a copy of the application to the railway company concerned before operations are commenced at the increased pressure.

PIPES CARRYING OIL OR OTHER FLAMMABLE OR HIGHLY VOLATILE LIQUIDS, OR NATURAL GAS OR MANUFACTURED GAS AND UNDER PRESSURE EXCEEDING 100 POUNDS PER SQUARE INCH

4. (*a*) Such pipes under tracks shall be seamless or welded steel pipes, or of other material satisfactory to the railway company, with welded or other approved joints.

(*b*) Carrier pipes required to operate at a pressure not exceeding two hundred pounds per square inch (200 p.s.i.) shall be capable of withstanding a pressure of three hundred pounds per square inch (300 p.s.i.).

(*c*) In the case of gas pipe lines required to operate at a pressure in excess of two hundred pounds per square inch (200 p.s.i.), the carrier pipe at the crossing shall conform with the requirements of the American Standards Association Code for Gas Transmission and Distributing Piping System, Section 8 of American Standard Code of Pressure Piping ASA B31.1-1955.

In the case of oil pipe lines required to operate at a pressure in excess of two hundred pounds per square inch (200 p.s.i.), the carrier pipe at the crossing shall be manufactured in accordance with the specifications listed in the American Standards Association Code for Pressure Piping ASA B31.1. The mill test pressure of carrier pipe must be equal to at least one and one-half times the anticipated maximum working pressure at the crossing. All welds at the crossing shall be tested.

(*d*) Carrier pipes under railway tracks shall be encased in a larger steel casing pipe of sufficient strength to withstand all stresses resulting from its location under the tracks.

(*e*) Carrier pipes having a diameter of three (3) inches or more shall be held clear of the casing pipe by properly designed supports.

All supports or insulations or centering devices for the carrier pipe shall be so designed and constructed that no loads from the roadbed, track or traffic are transmitted to the carrier pipe.

(*f*) Casing pipe shall extend to a minimum distance of forty-five (45) feet from the centre line on each side of single track or forty-five (45) feet beyond the centre line of outside track, measured at right-angles thereto, or for such additional distance as may be required. The foregoing distance may be reduced to thirty (30) feet in the case of other than main tracks as may be defined by the railway company.

(*g*) The inside diameter of the casing pipe shall be sufficiently large to permit ready withdrawal of carrier pipe without disturbing the road-bed and the casing pipe shall be installed with an even bearing throughout its length.

(*h*) Casing pipe shall be so constructed as to prevent leakage of any matter from the casing throughout its length under track and railway right-of-way except through vent pipes.

(*i*) Casing pipe shall be so installed as to prevent the formation of a waterway under the railway.

(*j*) The top of the casing pipe shall be at a depth of not less than six (6) feet below the base of rail, or not less than three (3) feet six (6) inches below the bottom of the right-of-way ditch or natural ground surface, whichever provides the greater depth.

The foregoing depths of six (6) feet and three (3) feet six (6) inches, may be reduced to four (4) feet and two (2) feet six (6) inches respectively in the case of other than main tracks, as may be defined by the railway company.

(*k*) Ends of casing pipe shall be suitably sealed to the outside of carrier pipe and properly vented above ground. The diameter of the vent pipes shall be not less than two (2) inches. Vent pipes shall extend not less than four (4) feet above ground surface and shall be placed approximately one (1) foot from the ends of the casing pipe. Tops of vent pipes shall be fitted with turn-

down elbows properly screened. The pipe crossing shall be suitably identified with markers located on each side of the railway right-of-way, approximately on the limits thereof.

(*l*) Pipe lines shall be located to cross railway tracks at an angle as close as practicable to ninety (90) degrees, but not less than forty-five (45) degrees. Pipe lines shall not be laid closer than thirty (30) feet to any portion of any bridge, building, or other important structure on railway right-of-way which might be damaged by leakage from, or failure of the pipe line.

(*m*) Carrier pipes, casing pipes and vent pipes shall be suitably insulated from underground conduits carrying electric wires on railway right-of-way, and vent pipes shall be at least four (4) feet distant from aerial electric wires.

(*n*) Whenever carrier pipe is cathodically protected, the railway company shall be notified so that suitable tests may be made to ensure that railway communication and signal systems, or other facilities may be adequately protected from the cathodic currents.

GENERAL REGULATIONS COVERING THE INSTALLATION OF PIPES UNDER TRACKS APPLICABLE TO PIPES DESCRIBED IN SECTIONS NOS. 1, 2, 3 AND 4

5. (*a*) Before commencing the installation of a pipe or pipes under the railway the party proposing to do so shall seek the written consent of the railway company owning, operating or having control over the railway proposed to be affected by the installation, and if required shall send to the railway company detail plans of the proposed installation.

(*b*) All work in connection with the laying, maintaining, renewing repairing, or removing of the said pipe or pipes installed under railways in accordance with these regulations and the continued supervision of the same shall be performed by, and all costs and expenses thereby incurred shall be borne and paid by the owner of the said pipe or pipes; but no work at any time shall be done in such a manner as to unduly obstruct, delay or interfere with the operation of the trains or traffic of the railway company, or other company using the said railway.

(c) The party owning the pipe or pipes shall at all times maintain the said pipe or pipes in good working order and condition, so that at no time shall any damage be caused to the property of the railway company, or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use and enjoyment thereof as heretofore by the railway company, or other company using the said railway, be in any way interfered with.

(*d*) In the event of the construction of any additional tracks, structures or facilities on the railway right-of-way as it existed on the date of the installation of the crossing, the party owning the pipe or pipes shall forthwith on demand by the railway company, do such things as may be necessary to cause the said pipe to comply with these regulations in relation to such additional tracks, structures or facilities.

(*e*) Before any work of laying, renewing, repairing, or removing the said pipe is begun, the party proposing to do so shall give to the local superintendent of the railway company at least 48 hours prior notice thereof in writing to enable the railway company to appoint an Inspector to see that the work is performed in such a manner as shall, in all respects, comply with these regulations; except that in cases of emergency, the appropriate official of

the railway company shall be notified immediately. The amount of wages and expenses of such Inspector shall be paid by the party owning the pipe or pipes upon receipt from the railway company of a statement showing in reasonable detail the particulars of such wages and expenses, except that in the case of a municipal corporation desiring to lay a pipe under the railway on a highway which is senior to the railway, the cost of such inspection shall be borne by the railway.

(*f*) The party owning the pipe or pipes shall at all times wholly indemnify the company owning, operating or using the railway, from and against all loss, cost, damage, injury and expense to which such company may be put by reason of any injury or damage to person or property caused by any of the said pipe or pipes, or by any oil, gas, water, or any other substance being carried in the said pipes, or by any works herein provided for, or by the imprudence, neglect, or want of skill of the employees or agents of the party owning the pipe or pipes in connection with the laying, maintenance, renewal, repair, or removal of the said pipe, or the use thereof, unless the cause of such loss, cost, damage, injury, or expense can be traced elsewhere.

(*g*) Any dispute between the parties as to the interpretation of these regulations may be referred by either party to the Director of Engineering of the Board, whose decision shall be subject to appeal to the Board.

(*h*) An application to the Board for authority to lay or maintain pipes under the railway is not required in cases in which pipes are to be laid or maintained under the railway with the consent of the railway company, in accordance with these regulations.

A. SYLVESTRE,
Deputy Chief Commissioner.

GENERAL ORDER NO. 813

In the matter of the Pipe Lines Act and the construction of company pipe lines across any highway, railway, irrigation ditch, underground telegraph, telephone or electric power line or pipe line, or the construction of a highway, private road, railway, irrigation ditch, drain, telegraph, telephone, or electric power line or pipe line across a company pipe line:

TUESDAY, the 12th day of July, A.D. 1955.

File No. 45371.5

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

In pursuance of the powers vested in the Board by the Pipe Lines Act and all other powers possessed by the Board in this behalf—

It is ordered

1. That the regulations hereinafter set forth under the heading, "Standard Regulations Regarding Company Pipe Line Crossings" be, and they are hereby made and adopted in respect to the construction of a company pipe line across any highway, railway, irrigation ditch, underground telegraph, telephone or electric power line or pipe line, or the construction of a highway, private road, railway, irrigation ditch, drain, underground telegraph, telephone or electric power line or pipe line across a company pipe line.

2. That any reference in an Order of the Board to "Standard Regulations Regarding Company Pipe Line Crossings" shall be deemed to be a reference to the regulations hereby made and adopted.

3. That General Order No. 732 be, and it is hereby, rescinded.

STANDARD REGULATIONS REGARDING COMPANY PIPE LINE CROSSINGS

1. These regulations shall apply unless the Board directs or permits a departure therefrom in respect to any particular crossing or crossings.

2. In these Regulations,

(*a*) "utility line" means an irrigation ditch, underground telegraph, telephone or electric power line or pipe line other than a company pipe line: and

(*b*) "company pipe line" or "line" means a pipe line for the transportation of oil or gas that a company is under a Special Act authorized to construct or operate or is owned by or leased to a company and that is subject to the legislative authority of the Parliament of Canada, and includes all branches, extensions, tanks, reservoirs, pumps, racks, loading facilities, inter-station systems of communication by telephone, telegraph or radio and property real and personal and works connected therewith.

3. Before constructing a company pipe line across any highway railway, utility line or other company pipe line, or before constructing any highway, private road, railway, drain or utility line across a company pipe line, the party proposing to do so, hereinafter called the applicant, shall apply to the Board

for leave, and upon such application, unless exempted by the Board, shall file with the Secretary of the Board three sets of a plan and profile combined of the crossing.

The plan shall be made to a scale of one inch to 1,000 feet and shall indicate clearly the location of the crossing and of all works involved in the crossing.

The profile shall be on the following scale:

Horizontal—one inch equals 20 feet

Vertical —one inch equals 10 feet

The plan of a company pipe line crossing any railway shall show the anticipated maximum working pressure and the mill test pressure of the carrier pipe, also specifications including the wall thickness and diameter of the carrier and casing pipes at the crossing.

4. The applicant shall give notice of the application with a copy of the plan profile combined, unless exempted by the Board, to the authority having control over the highway, railway, utility line, or company pipe line to be crossed, or to the owner of such railway, utility line or company pipe line, as the case may be.

5. (a) In the case of gas pipe lines the carrier pipe of a company pipe line at the crossing shall conform with the requirements of the American Standards Association Code for Gas Transmission and Distributing Piping System, Section 8 of American Standard Code of Pressure Piping ASA B31.1-1955.

(*b*) In the case of oil pipe lines the carrier pipe of a company pipe line at the crossing shall be manufactured in accordance with the specifications listed in the American Standards Association Code for Pressure Piping ASA B31.1. The mill test pressure of carrier pipe must be equal to at least one and one-half times the anticipated maximum working pressure at the crossing. All welds at the crossing shall be tested.

6. Any dispute between the parties as to the interpretation of these regulations may be referred by either party to the Director of Engineering of the Board, whose decision shall be subject to appeal to the Board.

RAILWAY CROSSINGS

7. Regulations numbering 4 (*d*) to 4 (*n*) inclusive, and 5 (*b*) to 5 (*f*) inclusive, of the "Standard Regulations Regarding Pipe Crossings under Railways", approved by General Order No. 812 shall apply to the construction of a company pipe line under any railway, whether the railway is, or is not subject to the jurisdiction of the Board under the provisions of the Railway Act. No other regulations approved by General Order No. 812 shall apply to a company pipe line.

THE FOLLOWING REGULATIONS APPLY TO THE CROSSING OF ANY HIGHWAY, UTILITY LINE OR OTHER COMPANY PIPE LINE BY A COMPANY PIPE LINE

8. Under any important highway the carrier pipe shall be encased in a larger steel casing pipe or conduit of sufficient strength to withstand all stresses and strains resulting from its location.

9. Casing pipe at any important highway crossing shall, unless the public authority concerned agrees to a lesser width, extend the full width of the existing highway right-of-way, and when required at other crossings the length of the casing pipe shall be determined by local conditions.

10. The ends of the casing pipe shall be suitably sealed to the outside of the carrier pipe and properly vented above the ground with vent pipes not less than 2 inches in diameter, and extending not less than 4 feet above the ground surface.

Vent pipes shall be connected with the casing pipe approximately one foot from the ends thereof. The top of each vent shall be fitted with a turn-down elbow, properly screened.

Where a casing pipe is installed under any highway, vent pipes with suitable identification markers are to be located on each side of the highway right-of-way, approximately on the limits thereof.

11. The inside diameter of the casing pipe shall be sufficiently large to permit ready withdrawal of the carrier pipe without disturbing the structure of the highway crossed. The casing pipe shall be installed with an even bearing throughout its length and in such manner as to prevent formation of a waterway along it.

The casing pipe shall be installed so as to prevent leakage, except through vent pipes.

12. The top of the casing pipe, or of the carrier pipe where casing is not required, shall be not less than 4 feet below the surface of the highway, or less than 1 foot below the highway ditches, and the pipe line shall be so located that it will not obstruct the drainage, or interfere with traffic on the highway, or highway maintenance. Where it is not practical to secure the required depth, special construction will be necessary and will be subject to the approval of the Board.

13. The carrier pipe, casing pipe and vent pipes shall be suitably insulated from underground conduits carrying electric wires and vent pipes shall be at least 4 feet distant from aerial electric wires.

14. The construction of the company pipe line shall be carried out in such a manner as not to unduly interfere with, obstruct or endanger traffic at any highway crossing, and all necessary precautions shall be taken by the company to protect traffic by the use of signs, signal, flagman or watchman.

15. All work in connection with the construction, maintenance, renewal and repair of the company pipe line, and the continued supervision of the same, shall be performed by the pipe line company and, unless the renewal or repair is made necessary by reason of the negligence of others, all costs and expenses of such work shall be borne and paid by the pipe line company, and no work at any time shall be done in such manner as to unduly obstruct, delay or interfere with the operation of any highway or utility line, or other company pipe line.

16. The pipe line company shall at all times be responsible for maintaining the company pipe line in good working order and condition, so that at no time shall any damage be caused to any highway, utility line, or other company pipe line, or its usefulness or safety be impaired, or the full use and enjoyment thereof be in any way interfered with.

17. Subject to the proviso hereinafter set out, before any work of constructing, renewing or repairing the company pipe line is begun, the pipe line company shall give the authority having control over the highway, utility line, or company pipe line, or to the owner of the utility line, or company pipe line, as the case may be, at least 48 hours notice thereof in writing; provided, however, that in an emergency, the work of repairing the company pipe line may be begun without giving notice, but in such case notice shall be given, as soon as is reasonably possible.

THE FOLLOWING REGULATIONS APPLY TO THE CROSSING OF COMPANY PIPE LINES BY ANY HIGHWAY, PRIVATE ROAD, RAILWAY, UTILITY LINE, DRAIN OR OTHER COMPANY PIPE LINE

18. Except as hereunder provided, all work in connection with the construction, maintenance, renewal and repair of any crossing of a company pipe line by any highway, private road, railway, utility line, drain or other company pipe line, and the continued supervision of the same shall be performed by the authority having control over such highway, railway, utility line, drain or other company pipe line, or the owner of such private road, railway, utility line, drain or other company pipe line as the case may be, at its own cost and expense, unless the renewal or repair is made necessary by the negligence of others. No work shall at any time be done in such a manner as to unduly obstruct, delay or interfere with the operation of the company pipe line. Notwithstanding the foregoing, all work which might disturb the pipe, which necessitates re-aligning, raising or lowering the pipe or excavating material from over or round it, or the addition of casing or other appurtenances thereto, shall be performed by the authority having control over the company pipe line or the owner thereof, as the case may be, and all costs and expenses of such work shall be borne and paid by the authority having control over such highway, railway, utility line, drain or other company pipe line, or the owner of such private road, railway, utility line, drain or other company pipe line, as the case may be.

19. The authority having control over any highway, railway, utility line, drain or other company pipe line, or the owner of any private road, railway, utility line, drain or other company pipe line crossing a company pipe line shall at all times maintain such crossing in good working order and condition, so that at no time shall any damage be caused to the company pipe line or its usefulness or safety be impaired, or the full use and enjoyment thereof be in any way interfered with.

20. Subject to the proviso hereinafter set out, before any work of constructing, renewing or repairing any crossing of a company pipe line is begun, the authority having control over such crossing or the party making, owning or operating such crossing, as the case may be, shall give to the owner of the company pipe line at least 48 hours notice thereof in writing, to enable the pipe line company to appoint an Inspector to see that the work is performed in such a manner as shall, in all respects, comply with these regulations; except that in cases of emergency, the appropriate official of the pipe line company shall be notified immediately. The amount of the wages and expenses of such Inspector shall be paid by the authority having control over such highway, railway, utility line, drain or other company pipe line, or the owner of such private road, railway, utility line, drain or other company pipe line, as the case may be, upon receipt from the pipe line company of a statement showing in reasonable detail the particulars of such wages and expenses.

INDEMNITY

21. The applicant shall at all times wholly indemnify the authority having control over the highway, railway, utility line or company pipe line, or the owner of the railway, utility line or company pipe line, as the case may be, from and against all loss, costs, damage, injury and expense to which the authority or owner may be put by reason of any damage or injury to persons or property caused by the construction, maintenance or operation of the company pipe line, or any other works herein provided for, as well as against any damage or injury resulting from the imprudence, neglect, or want of skill of the employees or agents of the applicant in connection with the construction, operation, maintenance, renewal or repair of said company pipe line, or any other works herein provided for, unless the cause of such loss, cost, damage, injury or expense can be traced elsewhere.

A. SYLVESTRE,
Deputy Chief Commissioner.

GENERAL ORDER No. 814

In the matter of Regulations respecting Agreed Charges pursuant to Section 32 of the Transport Act:

File No. 40994

FRIDAY, the 29th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

In pursuance of the powers specifically conferred by Section 32 of the Transport Act—

It is ordered

1. That the regulations attached hereto, entitled "Regulations of The Board of Transport Commissioners for Canada with respect to Agreed Charges pursuant to Section 32 of the Transport Act", be, and they are hereby, prescribed for observance by carriers and shippers making agreed charges under the provisions of the Transport Act.

2. That General Orders No. 581, dated January 1, 1939; No. 599, dated December 20, 1940; No. 796, dated June 3, 1954; and No. 802, dated August 25, 1954, be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

REGULATIONS OF THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA WITH RESPECT TO AGREED CHARGES PURSUANT TO SECTION 32 OF THE TRANSPORT ACT.

1. Agreements for agreed charges, in tariff form, shall be of uniform size, viz., eight (8) inches wide by eleven (11) inches long.

2. A duplicate original of an agreement for an agreed charge of amendment thereto shall be filed with the Board accompanied by a Filing Advice in the form set forth in Appendix A hereto.

3. Each agreement for an agreed charge filed with the Board shall bear in its upper right margin a consecutive number of the carrier or person filing the same, with the prefix "CTC(AC)".

4. Filing with the Board is deemed to be as of the date received by the Board, which date shall be stamped upon the filed document.

5. Agreements for agreed charges shall contain specific reference to the carriers and shippers who are participants therein.

6. Concurrently with the forwarding of an agreement for an agreed charge to the Board for filing, carriers participating therein who are subject to the jurisdiction of the Board shall publish such agreement by keeping on file, and

open to public inspection during reasonable business hours, a copy thereof at the following places respectively to the extent stated:

(a) Headquarters Regional offices Division offices District offices	All agreements for agreed charges.
(b) Agency offices or stations	Such agreements for agreed charges as apply from or to such offices or stations.

7. Notices of Intention, filed by United States carriers, shall be in the form set out in Appendix B hereto.

8. Notice of Intent, filed by a shipper pursuant to subsection (9) of Section 32 of the Transport Act shall be in the form set out in Appendix C hereto.

9. Applications to the Board pursuant to subsection (10) of Section 32 for a charge to be fixed for the transport of goods of a shipper shall be governed by the following rules of practice:

(1) The application shall be filed with the Board and be signed by or on behalf of the applicant and contain a clear and concise statement of the facts relied upon to establish unjust discrimination and clearly identify the agreement for the agreed charge by specifying its CTC(AC) number and the names of the carriers that are parties to the agreement. The application filed with the Board shall also have an endorsement showing the names of parties to which a copy of the application was delivered or mailed as required by rule (2).

(2) The applicant shall concurrently deliver or mail a copy of the application to each carrier and shipper, or agent thereof, who is a party to the agreement for the agreed charge involved.

(3) Within fifteen (15) days of the service of the copy of the application any of the carriers or shippers may file an answer thereto and shall concurrently deliver or mail a copy thereof to the applicant.

(4) Within five (5) days of the service of an answer the applicant may file a reply thereto and shall concurrently deliver or mail a copy thereof to the party who filed the answer.

(5) Upon completion of these pleadings or expiration of the periods specified the Board will decide whether its findings shall be made upon the written submissions or what alternative action shall be taken.

(6) The Board may in any case extend the period for filing an answer or reply or permit a departure from the rules.

Appendix "A"

FORM OF FILING ADVICE

(*Name and address of carrier*)

Date.....

FILING ADVICE (AC)
(number consecutively)

Director,
Traffic Department,
Board of Transport Commissioners for Canada,
Ottawa, Ont.

In compliance with the requirements of the Transport Act I submit herewith duplicate original agreement for an agreed charge or amendment thereto for filing with the Board, as follows:

Supplement Number	CTC (AC) Number	Effective Date	General Description

Note—If an acknowledgement of receipt by the Board for filing is required, a duplicate of the filing advice must be enclosed.

Name of filing officer.....

Title

Appendix "B"

NOTICE OF INTENTION

(*Name and address of carrier filing notice*)

Date.....

Director,
Traffic Department,
Board of Transport Commissioners for Canada,
Ottawa, Ont.

IN RE: Agreed Charge C.T.C. (AC).....
insert number

The (name of United States carrier), a United States carrier, hereby files with the Board of Transport Commissioners for Canada this NOTICE OF INTENTION to become a party to the agreement for an Agreed Charge as identified above from (point of origin)..... to (destination) via (description of route)

(Signed).....

(Title).....

The undersigned railway companies, being all the railway companies over whose lines the above described continuous route by rail is established, hereby concur.

Names of Railway Companies:—

(Signed).....

(Title).....

Appendix "C"

NOTICE OF INTENT

(*Name and address of shipper filing notice*)

Date.....

Director,
Traffic Department,
Board of Transport Commissioners for Canada,
Ottawa, Ont.

IN RE: Agreed Charge C.T.C. (AC).....
insert number

The (name of shipper) hereby files with the Board of Transport Commissioners for Canada this NOTICE OF INTENT to become a party to the agreement for an agreed charge as identified above, to become effective on the day of 19...., with the consent of the undersigned carriers.

(Signed).....
shipper

(Title).....

Consented to for and on behalf of carriers party to the above agreement.

(Signed).....

(Title).....

ORDER No. 86765

In the matter of Order No. 12953, dated February 10, 1911, which prescribed terms and conditions of carriage of goods by Express Companies:

File No. 4214
Case No. 1503

MONDAY, the 15th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Order No. 12953, dated February 10th, 1911, be, and it is hereby, amended by striking out the words "prescribed as the only forms to be used by the Companies" in the third last paragraph of the operative part of the said Order and substituting therefor the word "approved".

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86773

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 8 to Agreed Charge C.T.C. (AC) No. 57:

File No. 40994·44

WEDNESDAY, the 17th day of August, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 8 to Agreed Charge C.T.C. (AC) No. 57, on file with the Board under file No. 40994·44, be, and it is hereby, approved; and that the date as from which the said Supplement No. 8 shall be deemed to have become operative is hereby fixed as July 13th, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86774

In the matter of the application of the Canadian Freight Association dated July 13, 1955, for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 73:

File No. 40994·58

WEDNESDAY, the 17th day of August, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 73, on file with the Board under file No. 40994·58, be, and it is hereby approved; and that the date from which the said Supplement shall be deemed to have become operative is hereby fixed as the 14th day of July, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86779

In the matter of the application of the Canadian Freight Association, dated July 15, 1955, for approval of Supplement No. 7 to Agreed Charge tariff C.T.C. (AC) No. 69:

File No. 40994·63

FRIDAY, the 19th day of August, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 7 to Agreed Charge tariff C.T.C. (AC) No. 69, applicable on butter from points in Saskatchewan and Manitoba to destinations in Eastern Canada, be, and it is hereby, approved; and that the date from which the said Supplement No. 7 shall be deemed to have become operative is hereby fixed as the 18th day of July, 1955.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 86831

In the matter of the application of the Yellowknife Transportation Company for a licence under section 10 of the Transport Act;

And in the matter of Order No. 86340, dated June 6, 1955:

File No. 42076·31

WEDNESDAY, the 24th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 86340, dated June 6, 1955, be, and it is hereby, amended by adding to paragraph numbered one of the said Order, the following:

Vessel Name	*Official Registry Number*	*Gross Tonnage*
YTC 17	Not registered	250
YTC 18	Not registered	250
YTC 19	Not registered	250
YTC 20	Not registered	250

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86707 Aug. 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86708 Aug. 4—In the matter of the application of the C.P.R. on behalf of New Superior Oil of Canada Limited, for extension of temporary permit to load crude oil into tank cars from tank trucks near Ullin Alberta.

86709 Aug. 4—Approving location of C.N.R. shelter proposed to be erected at Clercs St. Viateur, Quebec.

86710 Aug. 4—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tank, etc. at Rivers, Manitoba.

86711 Aug. 4—In the matter of the application of the C.P.R. for authority to remove the station agent at Dalemead Station, Alberta.

86712 Aug. 4—Approving location of the freight and passenger shelter of the C.N.R., to be erected at Farrington, Ontario.

86713 Aug. 4—Approving operation of C.N.R. trains over a private siding serving the Atlas Construction Company at Green Point, New Brunswick.

86714 Aug. 4—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Honorable, The Minister of Lands and Forests of Ontario.

86715 Aug. 4—In the matter of the application of the C.N.R. on behalf of Imperial Oil Limited for extension of temporary approval of bulk storage facilities at Thicket Portage, Manitoba.

86716 Aug. 5—In the matter of the application of The Chesapeake and Ohio Railway Company for an Order extending the time within which it was required to install certain protection at the crossings of Lindsay Road and 9th Concession Road at Turnerville, Ontario.

86717 Aug. 5—Requiring the C.N.R. to install protection at the crossing of County Line Road, west of the station at Hanover, Ontario.

86718 Aug. 5—In the matter of the application of The Chesapeake and Ohio Railway Company for an Order extending the time for approval of plan showing crude oil loading site, near Rodney, Ontario.

86719 Aug. 5—Authorizing the B.C. Department of Highways to construct its Agassiz-Rosedale Highway across the C.N.R. by means of an overhead bridge at mileage 63·26 Yale Subdivision, British Columbia.

86720 Aug. 5—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 7 to Agreed Charge C.T.C. (AC) No. 83.

86721 Aug. 8—In the matter of the application of the C.N.R. on behalf of Great Plains Development Company of Canada, for extension of permission to load crude oil into tank cars from tank trucks at mileage 0·25 Drumheller North Branch, Alberta.

86722 Aug. 8—In the matter of the application of C.N.R. for approval of plan showing the proposed location of facilities for the handling and storage of inflammable liquids at Sudbury, Ontario.

86723 Aug. 8—Permitting the removal of slow order at C.P.R. crossing of Pitt River Road, mileage 1·5 Westminster Subdivision, British Columbia.

86724 Aug. 8—In the matter of the application of C.P.R. on behalf of California Standard Company for an Order extending permission to load crude oil tank cars from tank trucks at Barnwell, Alberta.

86725 Aug. 8—Requiring the C.N.R. to install certain protection at the crossing at mileage 16·49 Dartmouth Subdivision, Eastern Passage, Nova Scotia.

86726 Aug. 8—In the matter of the application of the Town of Dunnville, Ontario, for the installation of certain protection at C.N.R. crossing of Cedar Street, Dunnville, Ontario.

86727 Aug. 8—Authorizing the Municipal District of Strathcona No. 83, to widen the highway where it crosses the pipe line of the Trans Mountain Pipe Line Company in the Municipal District of Strathcona No. 83, Alberta.

86728 Aug. 8—Authorizing the C.N.R. to reconstruct Middle River Bridge at mileage 6·8 Pictou Subdivision, Nova Scotia.

86729 Aug. 8—Permitting the removal of slow order at Great Northern Railway Company crossing, north of the station at New Westminster, B.C.

86730 Aug. 9—In the matter of approval of plan submitted to the C.N.R. by Orenda Engines Limited, showing the location of pipe lines, etc. for the handling and storage of liquefied petroleum gas at Malton, Ontario.

86731 Aug. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Drumheller, Alberta.

86732 Aug. 9—Authorizing the Corporation of the District of Coquitlam, B.C., to construct a water main across the pipe line of the Trans Mountain Oil Pipe Line Company, near the intersection of Sheridan Avenue and Laurentian Crescent; and other water mains at certain locations, all in the District of Coquitlam, British Columbia.

86733 Aug. 9—Requiring the C.N.R. to install certain protection at the first crossing north of the station at Hilden, Nova Scotia.

86734 Aug. 9—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 3 near Sentinel, Alberta.

86735 Aug. 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Webb, Saskatchewan.

86736 Aug. 9—In the matter of approval of plan submitted to the C.N.R. by Island Propane Gas Limited, showing the proposed location of storage tank, etc. at New Annan, Prince Edward Island.

86737 Aug. 9—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86738 Aug. 9—Authorizing the C.P.R. to close the crossing in the Township of Bonfield, District of Nipissing. Ontario.

86739 Aug. 9—In the matter of the application of the Canadian Freight Association for approval of an agreed charge dated June 30, 1955. (acetate staple fibre and acetate yarn)

86740 Aug. 10—In the matter of Order No. 86494, which authorized the Ontario Department of Highways to construct Highway No. 69 across the C.P.R. by means of an overhead bridge at mileage 125·60 MacTier Subdivision, Ontario, and in the matter of the apportionment of the cost, etc.

86741 Aug. 10—Authorizing the C.N.R. to close as an agency the station at Point Tupper, Nova Scotia.

86742 Aug. 10—Authorizing the C.N.R. to construct a subway at the intersection of their railway and Sixth Street East, Calgary, Alberta.

86743 Aug. 10—Authorizing the Municipal Corporation of the Village of Charlemagne, County of L'Assomption, Quebec. to construct St. Jacques St. across the C.N.R. in Charlemagne, Quebec.

86744 Aug. 10—Authorizing the B.C. Department of Highways to construct the highway across the C.P.R. near Wasa, British Columbia.

86745 Aug. 10—Authorizing the B.C. Department of Highways to construct Bonanza Street across the C.P.R. in the Town of Golden, British Columbia.

86746 Aug. 10—Authorizing the C.N.R. to construct a timber sidewalk at the east side of the existing timber overhead bridge at Don Mills Road, Ontario, mileage 10·28 Bala Subdivision, Ontario.

86747 Aug. 10—Authorizing the Ontario Department of Highways to widen Highway No. 2 where it crosses the C.N.R. at Brookdale Avenue, Cornwall, Ontario.

86748 Aug. 11—In the matter of the application of the C.P.R. on behalf of Central Leduc Oils Limited, for permission to load crude oil into tank trucks at Barons, Alberta.

86749 Aug. 11—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited, showing the proposed location of pipe lines and pumping facilities at Bassano, Alberta.

86750 Aug. 11—Authorizing the C.N.R. to relocate the level crossing from mileage 13·77 to mileage 13·51 of the Canso Diversion, at Auld Cove, County of Guysborough, Nova Scotia.

86751 Aug. 11—Relieving the C.P.R. from erecting fencing between certain mileages on its LaRiviere Subdivision, Manitoba.

86752 Aug. 11—Authorizing the B.C. Department of Highways to construct the highway across the C.P.R. at mileage 17·06 Slocan Subdivision, British Columbia.

86753 Aug. 11—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Cumberland Telephone System.

86754 Aug. 11—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

86755 Aug. 12—Approving traffic agreement between the Quebec North Shore and Labrador Railway Company and the Gulf St. Lawrence Telephone Company.

86756 Aug. 12—Approving agreement between the Quebec North Shore and Labrador Railway Company and the Gulf St. Lawrence Telephone Company.

86757 Aug. 12—Approving operation of C.N.R. trains over private siding serving Queenston Quarries Limited, Township of Niagara, County of Lincoln, Ontario.

86758 Aug. 12—In the matter of approval of plan submitted to the C.N.R. by the British-American Oil Company Limited, showing the proposed location of storage tanks, etc. at Melfort, Saskatchewan.

86759 Aug. 12—Permitting the removal of slow order at C.P.R. crossing at Port Reeve. Saskatchewan.

86760 Aug. 12—Permitting the removal of slow order at C.P.R. crossing just west of the station at Talon, Quebec.

86761 Aug. 12—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tank, etc. at Somerset, Manitoba.

86762 Aug. 12—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Smiley, Saskatchewan.

86763 Aug. 12—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company, Limited, showing the proposed location of pipe lines and pumping facilities at Vulcan, Alberta.

86764 Aug. 12—Permitting the removal of slow order at C.P.R. crossing just north of the station at Desgrosbois, Quebec.

86765 Aug. 15—In the matter of Order No. 12953, dated February 10, 1911, which prescribed terms and conditions of carriage of goods by Express Companies.

86766 Aug. 15—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

86767 Aug. 15—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Noisy River Telephones Limited.

86768 Aug. 16—Permitting the removal of slow order at C.N.R. crossing of Clarkson Road, at Clarkson, Ontario.

86769 Aug. 16—In the matter of approval of plan submitted to the Dominion Atlantic Railway Company by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Middleton, Nova Scotia.

86770 Aug. 16—In the matter of the application of C.N.R. on behalf of Imperial Oil Limited, for approval of their facilities for loading crude oil into tank cars from tank trucks at Steelman, Saskatchewan.

86771 Aug. 17—Permitting the removal of slow order at C.P.R. crossing of Wilson Street, Perth, Ontario.

86772 Aug. 17—Relieving the C.P.R. from erecting fencing between certain mileages on its Laggan Subdivision, Alberta.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, OCTOBER 1, 1955 No. 13

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GENERAL ORDER No. 815

In the matter of General Order No. 41, amended by General Order No. 788, which approved two forms of bill of lading for use in Canada:

File No. 3678

FRIDAY, the 12th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that General Order No. 788, be, and it is hereby, amended by striking out the last paragraph of the said Order which reads as follows:

"AND IT IS FURTHER ORDERED that the forms hereby approved shall be the only forms of bills of lading to be used by all railway companies subject to the legislative authority of the Parliament of Canada except such forms as may hereafter be prescribed or approved by order of the Board."

A. SYLVESTRE,
Deputy Chief Commissioner,

62609

ORDER No. 86823

In the matter of the application of the Canadian Freight Association, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated July 14, 1955:

File No. 40994·88

WEDNESDAY, the 24th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated July 14, 1955, between the Canadian National Railways and Imperial Oil Limited, on Petroleum Products, Carloads, from St. John's, Newfoundland to Harbour Grace, Newfoundland, on file with the Board under file No. 40994·88, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 15th day of July, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 86824

In the matter of the application of the Canadian Freight Association, dated July 18, 1955, under the provisions of Part IV of the Transport Act, for approval of an Agreed Charge dated June 22, 1955, and Supplement No. 1 thereto dated July 18, 1955:

File No. 40994·84

WEDNESDAY, the 24th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed; notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939—

It is ordered that the agreed charge, dated June 22, 1955, between the Canadian National Railway Company, Canadian Pacific Railway Company, Essex Terminal Railway and Canadian Salt Company Limited, on Salt, carloads, from Ojibway, Ontario, to Cornwall, Ontario, and Supplement No. 1 thereto dated July 18, 1955, on file with the Board under file No. 40994·84, be, and they are hereby, approved, and that the date as from which the said agreed charge and Supplement No. 1 thereto shall be deemed to have become operative is hereby fixed as the 19th day of July, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86773 Aug. 17—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 8 to Agreed Charge C.T.C. (AC) No. 57.

86774 Aug. 17—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 73.

86775 Aug. 17—Authorizing the C.N.R. to operate their trains over the main line diversion between mileage 98·7 and mileage 100·1, Newmarket Subdivision, Ontario.

86776 Aug. 17—Authorizing the City of Nelson, British Columbia, to construct Fourth Street across the C.P.R. in the City of Nelson, British Columbia.

86777 Aug. 17—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Fraserwood, Manitoba.

86778 Aug. 17—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone over certain public highway in the Township of Chatham, County of Kent, Ontario.

86779 Aug. 17—Authorizing the Ontario Department of Highways to construct Highway No. 401 across the C.P.R. by means of an overhead bridge at mileage 97·08 Kingston Subdivision.

86780 Aug. 17—Approving plan showing the track layout as it now exists and the signals as installed between mileage 2·0 and mileage 15·0 Grimsby Subdivision, Ontario.

86781 Sept. 7—Approving certain signal changes in White River Yard, Schreiber Division, C.P.R.

86782 Aug. 18—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tank at Wawanesa, Manitoba.

86783 Aug. 18—In the matter of the application of the C.P.R. for an Order amending Order No. 86441, which authorized it to operate over portion of its Shogomoc Subdivision, in the Parish of Kent, County of Carleton, New Brunswick.

86784 Aug. 18—Authorizing the Don Mills Development Limited to lay an 8-inch cast iron water main across and under the pipe line of the Trans-Northern Pipe Line Company at Overland Drive, in the Township of North York, Ontario.

86785 Aug. 18—Authorizing the Newfoundland Department of Public Works to construct the highway across the C.N.R's spur leading to Gambo Pond, in the District of Bonavista North, Newfoundland.

86786 Aug. 18—Authorizing the Newfoundland Department of Public Works to construct the highway across the C.N.R. at mileage 188·06 Clarenville Subdivision, in the District of Bonavista North, Newfoundland.

86787 Aug. 18—Authorizing the Township of McKim, Province of Ontario to construct a pedestrian crossing over the C.P.R. at Portage Avenue, Township of McKim, Ontario.

86788 Aug. 18—Approving operation of C.P.R. trains over private siding to serve Trans-Canada Freezers Limited, Regina, Saskatchewan.

86789 Aug. 18—In the matter of the application of the Corporation of the Village of Maniwaki, Quebec, for authority to construct Commercial Street across the C.P.R.

86790 Aug. 18—Authorizing the British Columbia Toll Highways and Bridges Authority to construct the highway across the Vancouver and Lulu Island Railway, etc., Vancouver, B.C.

86791 Aug. 18—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

86792 Aug. 18—In the matter of the application of the Saskatchewan Power Corporation for authority to cross Interprovincial Pipe Line Company with an overhead power line.

86793 Aug. 19—Approving under the Maritime Freight Rates Act tolls published in supplement to tariffs filed by the C.N.R. under Sections 3 and 8.

86794 Aug. 19—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near Dominion Atlantic Railway Company's tracks at Truro, Nova Scotia.

86795 Aug. 17—Setting down the application of the Trans-Canada Pipe Lines Limited for a natural gas pipe line from Sheridan, Ontario, to a point near Ste. Anne de Bellevue, Quebec, for Hearing at Ottawa on September 15, 1955.

86796 Aug. 18—In the matter of the application of Trans-Canada Pipe Lines Limited for an Order granting leave to the applicant to deviate the general location of its proposed pipe line described in Order No. 84220, dated July 24, 1954.

86797 Aug. 19—Permitting the removal of slow order at C.N.R. crossing of highway at mileage 90·40 Sydney Subdivision, New Glasgow Division, Cape Breton County, Nova Scotia.

86798 Aug. 19—Permitting the removal of slow order at C.P.R. crossing of the highway at mileage 59·1 Winnipeg Beach Subdivision, Manitoba.

86799 Aug. 19—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 7 to Agreed Charge tariff C.T.C. (AC) No. 69.

86800 Aug. 19—Permitting the removal of slow order at C.N.R. crossing of Stanley Avenue, west of the station at Niagara Falls, Ontario.

86801 Aug. 19—In the matter of the application of the Westcoast Transmission Company Limited for an Order approving the plans showing location of its company pipe line in the Yale Land District, British Columbia.

86802 Aug. 19—In the matter of the application of the C.P.R. and the C.N.R. for authority to operate their trains over the siding of The Toronto Harbour Commissioners serving Canada and Dominion Sugar Company Limited on the south side of Queen's Quay East, Toronto, Ontario.

86803 Aug. 22—In the matter of the application of the Department of Public Works of Canada for an Order authorizing the construction of the Trans-Canada Highway across the C.P.R. by means of an overhead bridge at Leanchoil in Yoho National Park, British Columbia.

86804 Aug. 22—In the matter of the application of the C.N.R. for approval of plan showing protection as installed at the crossing of Manitoba Street and the C.N.R. in the City of St. Thomas, Ontario.

86805 Aug. 22—In the matter of the application of the City of Regina, Saskatchewan, for installation of automatic protection at the crossing of the C.P.R. and the intersection of Victoria Avenue and McDonald Street in the City of Regina, Saskatchewan.

86806 Aug. 22—In the matter of the application of the Hydro-Electric Power Commission of Ontario for authority to construct the relocated portion of the C.N.Rys.' Cornwall Subdivision, across the pipe line of the Trans-Northern Pipe Line Company in the County of Stormont, Ontario.

86807 Aug. 22—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Empress Subdivision, Saskatchewan.

86808 Aug. 22—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 85555, to widen the travelled portion and raise the approaches at the crossing of their railway and Cote Vertu Road in the Town of St. Laurent, Quebec.

86809 Aug. 22—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Burstall Subdivision, Saskatchewan.

86810 Aug. 22—Authorizing the C.P.R. to construct a bridge across the Black River at mileage 14·8 Manitouwadge Lake Branch Line, in the District of Thunder Bay, Ontario.

86811 Aug. 22—Relieving the C.P.R. from erecting railway fencing at mileage 87·86 Winchester Subdivision, Ontario.

86812 Aug. 22—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank at Gull Lake, Saskatchewan.

86813 Aug. 22—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Thorsby, Alberta.

86814 Aug. 23—In the matter of the application of the County of Lincoln, Ontario, for installation of automatic protection at the crossing of the railway of The Toronto, Hamilton and Buffalo Railway Company and Smithville Station Road, Ontario.

86815 Aug. 23—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Sections 3 and 8.

86816 Aug. 23—In the matter of changes proposed to be made in the protection at the crossing of the C.N.R. and Depot Street in the Town of Grimsby, Ontario.

86817 Aug. 23—Relieving the C.P.R. from erecting fencing on certain portions of its St. Gabriel Subdivision, at St. Felix, Que.

86818 Aug. 23—Approving certain revisions to tariffs filed by The Bell Telephone Company of Canada.

86819 Aug. 23—Authorizing the N.B. Department of Public Works to construct Mill Road across the C.P.R. in the Parish of Westfield, Kings County, N.B.

86820 Aug. 24—Permitting the removal of slow order at C.N.R. crossing first west of the station at Memramcook, N.B.

86821 Aug. 24—Permitting the removal of slow order at C.N.R. crossing of First Avenue, Prince George, B.C.

86822 Aug. 24—Authorizing the City of Hamilton, Ontario, to construct Rifle Range Road across The Toronto, Hamilton and Buffalo Railway Company in the City of Hamilton, Ont.

86823 Aug. 24—In the matter of the application of the Canadian Freight Association, for approval of a nagreed charge dated July 14, 1955, on Petroleum Products, Carloads.

86824 Aug. 24—In the matter of the application of the Canadian Freight Association, for approval of an Agreed Charge dated June 22, 1955, and Supplement No. 1 thereto dated July 18, 1955.

86825 Aug. 24—In the matter of approval of plan submitted to the C.N.R. by Canadian Mineral Spirits Limited, showing the proposed location of storage tanks, etc. at Point St. Charles (Montreal), Que.

86826 Aug. 24—In the matter of approval of plan submitted to the C.N.R. by Mr. T. Alty, showing the proposed location of storage tank, etc. at Millikens, Ont.

86827 Aug. 24—In the matter of the application of the C.P.R. for approval of its Standard No. 14A station proposed to be located at Picture Butte, Alta.

86828 Aug. 24—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

86829 Aug. 24—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Railway Company under section 8.

86830 Aug. 24—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Railway Company under section 8.

86831 Aug. 24—In the matter of the application of the Yellowknife Transportation Company for a licence under section 10 of the Transport Act.

86832 Aug. 25—Authorizing the C.N.R. to operate under the overhead bridge in the Township of Orillia, County of Simcoe, Ont.

86833 Aug. 25—Authorizing the Saskatchewan Department of Highways to widen Highway No. 5 where it crosses the C.N.R. at mileage 25·59 Humboldt to Melfort Line, Sask.

86834 Aug. 25—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 4, west of the station at Durham, Ont.

86835 Aug. 25—Permitting the removal of slow order at C.N.R. crossing at mileage 25·93 Fergus Subdivision, Ont.

86836 Aug. 25—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing the proposed location of storage tanks, etc. at Rimouski, Que.

86837 Aug. 25—In the matter of the application of the Saskatchewan Power Corporation, for authority to cross the right of way of the Interprovincial Pipe Line Company with an overhead power line in the Southwest quarter of Section 22, Township 17, Range 18, W2M, Sask.

86838 Aug. 25—Authorizing the B.C. Department of Highways to construct the highway across the C.P.R. by means of an overhead bridge at mileage 96·7 Cranbrook Subdivision, B.C.

86839 Aug. 26—Authorizing the C.N.R. to construct an industrial lead track across Road No. 4, in Block 3N, Range 6W, in the Municipality of Richmond, on Lulu Island, B.C.

86840 Aug. 26—Authorizing the Town of Fergus to construct Woodside Street across the C.P.R., Fergus, Ont.

86841 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

86842 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under section 8.

86843 Aug. 26—Authorizing the Quebec Department of Highways to widen Highway No. 23 where it crosses the Quebec Central Railway Company in the Municipality of Ste. Marie, County of Beauce, Que.

86844 Aug. 29—Approving proposed location of storage tank, etc. of S. Anglin Company Limited, near the C.P.R. tracks at Kingston, Ont.

86845 Aug. 29—In the matter of approval of plan submitted to the C.N.R. by Sandy Lake Consumers Co-Operative Limited, showing the proposed location of storage tanks, etc. at Sandy Lake, Man.

86846 Aug. 29—Permitting the removal of slow order at C.P.R. crossing at mileage 80·70 Galt Subdivision, Ont.

86847 Aug. 29—Relieving the C.P.R. from erecting fencing between certain mileages of its Walkerton Subdivision, Ont.

86848 Aug. 29—Relieving the C.P.R. from erecting railway fences on the east side of its right of way between mileage 59·43 and mileage 59·55 Owen Sound Subdivision, Ont.

86849 Aug. 29—Relieving the C.P.R. from erecting fencing between mileages 27·95 and 28·01 (North Side) of its Elora Subdivision, Ont.

86850 Aug. 29—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86851 Aug. 29—Approving location and details of the C.N.R. station at Port Hawkesbury, N.S.

86852 Aug. 29—Authorizing the Canadian Petrofina Limited to construct a pipe line under the pipe line of the Trans-Northern Pipe Line Company in Lot 21, Concession 3, Township of North York, Ont.

86853 Aug. 30—Relieving the C.P.R. from erecting railway fencing between certain mileages on its Wingham Subdivision, Ont.

86854 Aug. 30—Permitting the removal of slow order at crossing of Dunford Road and the railway of the Esquimalt and Nanaimo Railway Company, north of station at Langford, B.C.

86855 Aug. 30—Approving agreement between The Bell Telephone Company of Canada and the Aluminum Company of Canada, Limited.

86856 Aug. 30—Requiring the C.P.R. to install certain protection at the crossing of Provincial Highway No. 11, first crossing south of the station at Brora, Sask.

86857 Aug. 30—Authorizing the Town of Deer Lake, Nfld., to construct Mayor Avenue across the C.N.R. in the Town of Deer Lake, Nfld.

86858 Aug. 30—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under sections 3 and 8.

86859 Aug. 31—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and the Boat Lake Telephone Company Limited.

86860 Aug. 31—Requiring the C.N.R. to install certain protection at the crossing of Kipling Avenue at mileage 11·07 Brampton Subdivision, Ont.

86861 Aug. 31—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along public highway in the County of Kent, Ont.

86862 Aug. 31—Authorizing the C.N.R. to construct a railway siding across Common Street and along and across Queen Street, to serve Queen Street, Montreal, Que.

86863 Aug. 31—Requiring the C.N.R. to install certain protection at the crossing of Martin Grove Road at mileage 11·73 Brampton Subdivision, Ont.

86864 Aug. 31—Authorizing the United Townships of Head, Clara and Maria, Ont., to construct the highway across the C.P.R. in Lot 25, Concession 14, Township of Head, Ont.

86865 Aug. 31—Permitting the removal of slow order at C.N.R. crossing of Notre Dame Street, in the Town of Summerside, P.E.I.

86866 Aug. 31—Approving proposed location of storage tanks, etc. of Clinworth Co-operative Association Limited, near the C.P.R. tracks at Sceptre, Sask.

86867 Aug. 31—Approving plan showing location of Westcoast Transmission Company Limited pipe line within the Cariboo District, B.C.

86868 Aug. 31—Authorizing the Don Mills Developments Limited to lay a sewer pipe under the pipe line of the Trans-Northern Pipe Line Company on the west side of the west branch of the C.N.R. Leaside tracks, opposite Kern Road, in the Township of North York, Ont.

86869 Aug. 31—Approving proposed location of storage tank, etc. of McColl-Frontenac Oil Company Limited, near the C.P.R. tracks at Cranbrook, B.C.

86870 Aug. 31—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Rosenfeld, Man.

86871 Aug. 31—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Vanguard, Sask.

86872 Aug. 31—Permitting the removal of slow order at C.P.R. crossing near LaSalle, Man.

86873 Sept. 1—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Pilot Mound, Man.

86874 Sept. 1—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near the C.P.R. tracks at Arborg, Man.

86875 Sept. 1—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Snowflake, Man.

86876 Sept. 1—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing the proposed location of storage tank, etc. at Deloraine, Man.

86877 Sept. 1—In the matter of approval of plan submitted to the Dominion Atlantic Railway Company by Imperial Oil Ltd., showing the proposed location of storage tanks, etc. at Digby, N.S.

86878 Sept. 1—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Cartwright, Man.

86879 Sept. 1—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86880 Sept. 1—Permitting the removal of slow order at C.P.R. crossing east of the station at Gonor, Man.

86881 Sept. 1—Approving proposed location of pumping facilities and warehouse of McColl-Frontenac Oil Company Limited, near the C.P.R. tracks at Rosetown, Sask.

86882 Sept. 1—Authorizing the C.P.R. to construct tracks to serve their car cleaning trackage, across Allowance Avenue, Medicine Hat, Alta.

86883 Sept. 2—Permitting the removal of slow order at C.N.R. crossing at mileage 37·95 Alexandria Subdivision, west of the station at Ayrness, Que.

86884 Sept. 2—Permitting the removal of slow order at C.P.R. crossing at mileage 96·37 Kerrobert Subdivision, Sask.

86885 Sept. 2—Authorizing the New York Central Railroad to close the station at Ste. Cecile Junction, Que.

86886 Sept. 2—Authorizing the Town of Port Colborne, Ont., to construct a road diversion from Highway No. 58 to Welland Avenue, between Killaly Street and St. Arnaud Street, across the main line track of the Humberstone Subdivision of the C.N.R., Port Colborne, Ont.

86887 Sept. 2—Approving Plan showing crossing as it now exists and the protection as installed at the crossing of 18th Street and the C.N.R., City of Brandon, Man.

86888 Sept. 2—Permitting the removal of slow order at C.P.R. crossing of Lesperance Road, west of Elmstead, Ont.

86889 Sept. 2—Authorizing the C.P.R. to construct a connection between its railway and the C.N.R. at mileage 8·88 Westminster Subdivision of the C.P.R., B.C.

86890 Sept. 2—Authorizing the C.P.R. to construct extensions to the subway at the crossing of its railway and First Street East in the City of Calgary, Alta.

86891 Sept. 2—Authorizing the Westcoast Transmission Company Limited to construct its company pipe line across the C.P.R. in Indian Reserve No. 4, in Township 5, Range 27, W6M, British Columbia.

86892 Sept. 2—In the matter of the application of the C.N.R. for approval of plan being General Layout Plan of the Woodbine Avenue subway in the City of Toronto, Ont.

86893 Sept. 6—Authorizing The Chesapeake & Ohio Railway Company to construct a loop track connecting the yard tracks of the New York Central Railroad Company with the track of the Essex Terminal Railway Company in the vicinity of Tecumseh Road, Windsor, Ont.

86894 Sept. 6—In the matter of the application of the C.N.R. and the C.P.R. for authority to operate their trains over the siding of The Toronto Harbour Commissioners serving the Bowes Company, Limited, Toronto, Ont.

86895 Sept. 6—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways at Woodstock, Ont.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORAL JUDGMENT

(Delivered at conclusion of hearing at Ottawa, September 15, 1955)

In the matter of the application of Trans-Canada Pipe Line Limited, hereinafter called the "Applicant", for an Order granting leave to it to build between September 30, 1955, and December 31, 1956, a natural gas pipe line from Sheridan, Ontario, to a point near Ste. Anne de Bellevue, Quebec, including a branch line from the Town of Morrisburg to the City of Ottawa, Ontario, and the City of Hull, Quebec, being a portion of a total pipe line from Alberta to Montreal as authorized by Order No. 84220, dated July 24, 1954:

File No. 45371·20·2

KEARNEY, J., Chief Commissioner:

Apart from the objection as to the jurisdiction which was filed by Mr. Beaulieu and the remarks made at this hearing by Mr. Nerenberg, there seems to be no objection to the granting of this application.

First of all, with regard to Mr. Beaulieu's exception to the jurisdiction of the Board on behalf of the Attorney General of the Province of Quebec, he stated that he was aware of the decision of this Board that it is not its function to pass upon the constitutionality of the Federal Act but it was thought that silence of the Attorney General who has been served with the application might be considered as an acquiescence and it is intended purely and simply to avoid such a conclusion.

As to Mr. Nerenberg's representations, I have dealt with them in the course of argument and we dealt with them in previous applications.

Now, on the other side of the balance sheet, there is tremendous support for proceeding with the construction of this roughly-called Toronto-Montreal line and Federal Government policy with respect to the Trans-Canada project has been made clear by the statement made by the Deputy Minister of Trade and Commerce wherein he said:

"The Government of Canada is taking immediate steps, in co-operation with the Government of Ontario, to arrange for a Crown Corporation to

build a portion of the proposed Trans-Canada pipe line between the Manitoba-Ontario border and Kapuskasing in order to insure that the total Trans-Canada pipe line project as authorized by the Transport Board by Order No. 84220 dated July 24, 1954, will be built."

Further, he stated that:

"The Government of Canada has been assured by Trans-Canada Pipe Lines Limited, and by its bankers, that in these circumstances Trans-Canada will be able to build the balance of the said pipe line."

Apart from these assurances, supported by the evidence which we heard this morning we have in addition the recommendation from the Government of Canada, which is as follows:

"The Government of Canada, therefore, is of the opinion that the Montreal line (Sheridan, Ontario, to Ste. Anne de Bellevue, Quebec) is a necessary preliminary stage of construction to the completion of the total Trans-Canada pipe line and that such Montreal line should be authorized at this time, without awaiting proof of the financial commitments for the total Trans-Canada pipe line, so that the ultimate financing may not be unnecessarily delayed"

With this kind of support and the financial arrangements already made by Trans-Canada with regard to this Toronto-Montreal line, there is ample evidence, I think, to justify the granting of the application with respect to the Toronto-Montreal line.

The company is already conditionally authorized by the Board to construct the entire line and has until the end of 1957 to complete construction. They tell us that they are ready to proceed with the Toronto-Montreal portion and they have made proof that two banks are prepared to advance the necessary monies to construct this portion of the project.

With regard to the other part of the application, namely, the six months' extension for proving financial capacity to construct the whole line, there are certain uncontrollable factors which I consider justify such an extension. When undertakings are going to be made by a governmental authority, there is parliamentary action required which of necessity entails some delay.

In view of the relatively inconsequential opposition to this application and the convincing evidence made before us this morning in support of it, we can, in the interests of expedition, dispose of this application orally and now and we will grant the application both in regard to the building of the Toronto-Montreal line and the six months' extension with regard to proof of financiability and we propose forthwith to issue an Order accordingly.

In conclusion, I want to just say with respect to Mr. Collins-Williams' representations as to the location of the line in and through the Township of Toronto that he has reserved his position and I want to assure him that this matter will be dealt with when the specific plans and book of reference have been filed and that his position will not be prejudiced and we would be not less inclined to change the plan to the specifications that he suggests at a later date as we would now. We will therefore reserve our decision on this aspect of the case until a later date.

JOHN D. KEARNEY,
Chief Commissioner.

I concur:
A. SYLVESTRE, *Deputy Chief Commissioner.*

I concur:
FRANK M. MacPHERSON, *Commissioner.*

ORDER No. 86988

In the matter of the application of Trans-Canada Pipe Lines Limited, hereinafter called the "Applicant", for an Order granting leave to it to construct a natural gas pipe line from Sheridan, Ontario, to a point near Ste. Anne de Bellevue, Quebec, including a branch line from Morrisburg to Ottawa, being a portion of the total pipe line from Alberta to Montreal for which conditional leave to construct was granted by Order No. 84220, dated July 24, 1954:

File No. 45371·20·2

WEDNESDAY, the 21st day of September, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas by Order No. 84220, dated July 24, 1954, leave was granted to the Applicant to construct its proposed pipe line from a point on the Alberta-Saskatchewan border to Montreal and other places;

And Whereas the leave so granted was conditional upon the Applicant satisfying the Board prior to October 31, 1955, "that satisfactory arrangements have been completed for financing the construction of its proposed pipe line and that any licences which may be necessary under the Electricity and Fluid Exportation Act have been or will be granted";

And Whereas the Applicant has applied for leave to construct a portion of the entire proposed pipe line, namely, the portion from Sheridan, near Toronto, to Ste. Anne de Bellevue, on the Island of Montreal, with a branch line from Morrisburg to Ottawa, without being required to comply with the said conditions in Order No. 84220;

And Whereas the Applicant has also applied for an extension until April 30, 1956, of the period for satisfying the Board in respect of financing and licences as set forth in Order No. 84220;

Now upon hearing the application at a sitting of the Board in Ottawa on September 15, 1955, in the presence of Counsel for the Applicant and for the Attorney General of the Province of Quebec, the Township of Toronto, the Municipality of Metropolitan Toronto, the Marianne Abbot Estate, the Ontario Hydro-Electric Power Commission, the Public Utilities Commission of the City of Kingston, the Bell Telephone Company of Canada, the City of Ottawa, property owners of the Township of Vaughan, the City of Montreal and the New York Central Railroad Company, and representatives of the Township of Vaughan, the Labor Progressive Party and the Engineering Department of Public Works of Montreal, and upon an Oral Judgment given at the said sitting—

It is ordered

1. That, notwithstanding the said Order No. 84220, leave be, and it is hereby, granted to the Applicant to construct a portion of the said proposed entire pipe line, namely, the portion from Sheridan, Ontario, to a point near Ste. Anne de Bellevue, Quebec, including a branch line from the Town of Morrisburg to the City of Ottawa, without first satisfying the Board that satisfactory arrangements have been completed for financing the construction of the entire proposed pipe line and that any licences which may be necessary under the Exportation of Power and Fluids and Importation of Gas Act in respect of the entire line have been or will be granted.

2. That the said portion be constructed and completed on or before December 31, 1956.

3. That the diameter of the pipe line from Toronto Junction to Ste. Anne de Bellevue may be decreased to 20 inches from 24 inches and the diameter of the pipe line from Morrisburg to Ottawa may be decreased to $12\frac{3}{4}$ inches from 16 inches.

4. That the period for satisfying the Board in respect of financing and licences as set forth in Order No. 84220 be, and it is hereby, extended to April 30, 1956.

JOHN D. KEARNEY,
Chief Commissioner.

GENERAL ORDER No. 816

In the matter of approval of Supplement No. 4 to the Board of Transport Commissioners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717·B

FRIDAY, the 26th day of August, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the said Supplement No. 4 to the Board of Transport Commissioners for Canada Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, on file with the Board under file No. 1717·B, be, and it is hereby, authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That this General Order No. 816 shall come into force on the 1st day of November, 1955.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JULY, 1955

Railway Accidents	265	Killed	14	Injured	271
Level Crossing Accidents....	24	Killed	10	Injured	27
Total	289		24		298

	Killed	*Injured*
Passengers	—	77
Employees	3	176
Others	21	45
Total	24	298

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		PRINCE EDWARD ISLAND
—	1	Automobile ran into side of train. Licence: P.E.I. 19-785.
		NOVA SCOTIA
—	1	Automobile stalled on crossing and was struck by train. Licence: N.S. 1130-64.
		NEW BRUNSWICK
1	1	Motorcycle ran into side of train. Licence: N.B. 1665.
		QUEBEC
—	1	Auto truck ran into side of train. Licence: Que. F-11881.
5	—	Auto taxi drove onto crossing in front of approaching train and was struck. Licence not given.
		ONTARIO
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 87-039.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 474-106.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 98-568-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 989-720.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 634-626.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 46795.
		MANITOBA
1	2	Automobile ran into side of train. Licence: Man. 9X-489.
—	2	Track Motor car struck by automobile. Licence: Man. PJ-789.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 88-B-4.
		SASKATCHEWAN
—	1	Track motor car trailer struck by automobile. Licence: Sask. 50-459.
—	3	Automobile ran into side of train. Licence: Sask. 29-315.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-15390.

Killed	*Injured*	
		ALBERTA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. SN-558.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Automobile ran into side of train. Licence: Alta. FM-319.
1	—	Track motor car struck by station wagon. Licence: Alta. JV-936.
		BRITISH COLUMBIA
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 252-732.
1	1	Automobile negotiated crossing, stalled, and rolled back foul of track. Licence: B.C. 143-020.
—	1	Auto truck stalled on crossing and was struck by train. Licence: B.C. C45-486.

Of the 24 accidents at highway crossings, 21 occurred at unprotected crossings, and 3 at protected crossings. 13 occurred after sunrise and 11 after sunset.

OTTAWA, Ontario, September 20, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

86896 Sept. 6—Authorizing the West MacDonald Mines Limited to cross the C.N.R. right-of-way with an overhead tramway at mileage 37·93, Rouyn Subdivision, Quebec.

86897 Sept. 7—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Russell, Manitoba.

86898 Sept. 7—In the matter of the application of the Westcoast Transmission Company Limited for an Order approving plan showing location of company pipe line from a point on the west boundary of Soda Creek Indian Reserve No. 2, Cariboo District, to a point on the south boundary of Section 6, Township 13, Lillooet District, British Columbia.

86899 Sept. 7—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Bradwardine. Manitoba.

86900 Sep. 7—Authorizing the C.P.R. to extend the existing subway at First Street West, Calgary, Alberta.

86901 Sept. 8—Authorizing the Town of Preston to widen Concession Road where it crosses the C.N.R. in the Town of Preston, Ontario.

86902 Sept. 8—Approving operation of C.P.R. trains over siding to serve John Inglis Company Limited and Somerville Limited, Township of Scarborough, Ontario.

86903 Sept. 8—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86904 Sept. 8—Authorizing the Town of Preston, Ontario, to widen Concession Road where it crosses the C.N.R. in the Town of Preston, Ontario.

86905 Sept. 8—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

86906 Sept. 9—Requiring the C.N.R. to install certain protection at the crossing of highway and their railway at Fletcher's Station, Halifax County, Nova Scotia.

86907 Sept. 9—In the matter of approval of plan submitted to the C.P.R. by the Canadian Petrofina Limited showing storage tanks, etc. at Ste. Agathe, Quebec.

86908 Sept. 9—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

86909 Sept. 9—Approving proposed location of storage tanks of Imperial Oil Limited near C.P.R. tracks at Stonewall, Manitoba.

86910 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by The British American Oil Company Limited showing proposed location of pipe lines at Rimouski, Quebec.

86911 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited showing proposed location of pipe lines at Riviere du Loup, Quebec.

86912 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tank at Oakville, Manitoba.

86913 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Rainy River, Ontario.

86914 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Rockyford, Alberta.

86915 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by the British Columbia Power Commission showing proposed location of storage tanks, etc., at Houston, British Columbia.

86916 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Minitonas, Manitoba.

86917 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Mr. Joseph Malette, showing proposed location of storage tanks, etc. at Sturgeon Falls, Ontario.

86918 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tank at Erickson, Manitoba.

86919 Sept. 9—Authorizing the Township of Etobicoke, to lay a concrete sewer pipe under the pipe line of the Trans Northern Pipe Line Company at Muriel Avenue, Township of Etobicoke, Ontario.

86920 Sept. 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank at Lac du Bonnet, Manitoba.

86921 Sept. 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at Whitemouth, Manitoba.

86922 Sept. 9—In the matter of application of the Pacific Great Eastern Railway Company for authority to construct a railway bridge over the Fraser River, British Columbia.

86923 Sept. 9—Approving Supplement No. 3 to Service Station Contract between The Bell Telephone Company of Canada and The Kemble Sarawak Telephone Company Limited.

86924 Sept. 9—Permitting the removal of slow order at C.N.R. crossing at St. Jean Chrysostome, Quebec.

86925 Sept. 9—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank at Waskada, Manitoba.

86926 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Jones, Ontario.

86927 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Three Hills, Alberta.

86928 Sept. 9—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Birch River, Manitoba.

86929 Sept. 12—Permitting the removal of slow order at C.P.R. crossing first crossing north of the station at Carey, Manitoba.

86930 Sept. 12—Relieving the C.P.R. from erecting fencing between certain mileages on its North Bay Subdivision, Ontario.

86931 Sept. 12—Authorizing the Quebec Department of Roads to widen and relocate Highway No. 47 where it crosses the C.N.R. at mileage 33·86 Sorel Subdivision, Quebec.

86932 Sept. 12—Authorizing the Rural Municipality of Prince Albert, No. 461, Saskatchewan, to construct the highway where it crosses the C.N.R. at mileage 148·2 Tisdale Subdivision, Saskatchewan.

86933 Sept. 12—Permitting the removal of slow order at C.N.R. crossing of Fifth Avenue, east of the station at Hornepayne, Ontario.

86934 Sept. 12—Permitting the removal of slow order at C.P.R. crossing of Eglinton Avenue, (Mount Dennis), Toronto, Ontario.

86935 Sept. 12—Relieving the C.P.R. from erecting fencing between certain mileages on its Lenore Subdivision, Manitoba.

86936 Sept. 12—Permitting the removal of slow order at C.N.R. crossing of Judge Avenue, east of the station in the City of North Bay, Ontario.

86937 Sept. 12—Permitting the removal of slow order at C.N.R. crossing of Clarence Avenue, mileage 58·2 Asquith Subdivision, Saskatchewan.

86938 Sept. 12—Permitting the removal of slow order at C.P.R. crossing, being the second crossing east of the station at Chase, British Columbia.

86939 Sept. 12—Authorizing the C.N.R. to reconstruct the west approach to the permanent bridge over the Thunder River, British Columbia, at mileage 123·5 Albreda Subdivision.

86940 Sept. 12—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near the C.N.R. tracks at Alonsa, Manitoba.

86941 Sept. 12—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Parent, Quebec.

86942 Sept. 13—Directing the C.P.R. to erect and maintain a station shelter with platforms on its Winchester Subdivision at Brucy, (Ile Perrot), Quebec.

86943 Sept. 13—Dismissing the application of the community of Louis Creek, British Columbia, for an Order directing the C.N.R. to establish an agency station at Louis Creek, British Columbia.

86944 Sept. 13—Dismissing the application of the C.N.R. for authority to remove the agent at St. Albert, Alberta.

86945 Sept. 13—Dismissing the application of the C.N.R. for authority to remove the agent at Rowley, Manitoba.

86946 Sept. 13—Approving Supplements to Traffic Agreement between The Bell Telephone Company of Canada and The McNab Telephone Company Limited.

86947 Sept. 13—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and Hurontario Telephones Limited.

86948 Sept. 13—Amending Order No. 82636, dated November 25, 1953.

86949 Sept. 13—Approving under the Maritime Freight Rates Act toll published in Tariff filed by the C.N.R. under sections 3 and 8.

86950 Sept. 13—Approving under the Maritime Freight Rates Act toll published in Supplement to Tariff filed by the Canadian Freight Association under section 3.

86951 Sept. 13—Approving proposed location of storage tanks, etc. of Canadian Oil Companies Limited, near the C.N.R. tracks at Sydney, Nova Scotia.

86952 Sept. 14—Approving proposed location of storage tanks, etc. owned by Wallace A. Mackey Limited, near the C.P.R. tracks at White River, Ontario.

86953 Sept. 14—Permitting the removal of slow order at C.N.R. crossing, being the first public crossing north of the station platform at Laval sur le Lac, Quebec.

86954 Sept. 14—Permitting the removal of slow order at C.N.R. crossing, being the first public crossing north of the station at Floral Park, Ontario.

86955 Sept. 14—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at St. Laurent, Manitoba.

86956 Sept. 14—Permitting the removal of slow order at C.P.R. crossing of Park Avenue, east of the station at St. Martin Junction, Quebec.

86957 Sept. 14—In the matter of the application of the C.N.R. for an Order authorizing immediate discontinuance of the operation of their passenger trains between Bathurst and Tracadie, New Brunswick.

86958 Sept. 15—Authorizing the Township of Grenville, Quebec. to construct the highway across the C.P.R. in the Township of Grenville, Quebec, at mileage 65·9 Lachute Subdivision.

86959 Sept. 15—Permitting the removal of slow order at The Algoma Central and Hudson Bay Railway Company crossing of Wellington Street, Sault Ste. Marie, Ontario.

86960 Sept. 15—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone across a certain public highway in the Corporation of the Township of Harwich, Ontario.

86961 Sept. 15—Authorizing the C.P.R. to install certain protection at the crossing of the highway and its railway at Penhold, Alberta, mileage 86·3 Red Deer Subdivision.

86962 Sept. 15—Authorizing the C.N.R. to construct one additional track to serve Mr. B. Plotnick (Jeanne D'Arc Street Realty Corporation), across Orleans Avenue, Montreal, Quebec.

86963 Sept. 15—Permitting the removal of slow order at C.P.R. crossing west of the station at Meath, Ontario.

86964 Sept. 16—Authorizing the Township of North York, Ontario, to construct Grantbrook Street across the pipe line of the Trans-Northern Pipe Line Company in Lot 22, Concession 1, West of Yonge Street, Township of North York, Ontario.

86965 Sept. 16—Authorizing the Rural Municipality of Fort Garry, Manitoba, to construct a pedestrian crossing over the C.N.R. between McGillivray Boulevard and Pembina Highway, in the Rural Municipality of Fort Garry, Manitoba.

86966 Sept. 16—Authorizing the Township of North York, Ontario, to construct Willowdale Boulevard across the company pipe line of the Trans-Northern Pipe Line Company in Lot 21, Concession 1, east of Yonge Street, in the Township of North York, Ontario.

86967 Sept. 16—Exempting the Trans-Northern Pipe Line Company from submitting a plan, profile and book of reference in respect of a proposed deviation of its pipe line in Lots Nos. 21 and 22, Concession 3, west of Yonge Street, Township of North York, Ontario.

86968 Sept. 16—In the matter of the application of the C.N.R. for approval of plans showing overhead and underground pipe lines and electric ducts to be constructed across their tracks by Imperial Oil Limited.

86969 Sept. 16—Approving Plan No. SD-3498A, dated November 6, 1953, in lieu of Plan No. SD-3498, dated August 16, 1951.

86970 Sept. 16—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86971 Sept. 16—Authorizing the C.P.R. to remove the station agent at Chin, Alberta, and to appoint a caretaker.

86972 Sept. 16—Authorizing the Canadian Petrofina Limited, to cross under the pipe line of the Trans-Northern Pipe Line Company with a pipe line in the City of Hamilton, Ontario, at certain locations.

86973 Sept. 16—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Ponoka, Alberta.

86974 Sept. 16—Approving proposed location of storage tanks, etc. of Gibson Petroleum Company Limited, near C.P.R. tracks at Throne, Alberta.

86975 Sept. 19—Permitting the removal of slow order at Montreal and Southern Counties Railway crossing of Sir Wilfrid Laurier Highway, at Greenfield Park, Quebec.

86976 Sept. 19—Authorizing the C.N.R. to remove the station agent at Haynes, Alta.

86977 Sept. 19—Authorizing the Town of Stonewall, Man., to relocate the crossing of South Maude Street and the C.P.R., in the Northeast quarter of Section 25, Township 13, Range 1, East Principal Meridian, Stonewall, Manitoba.

86978 Sept. 19—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Oak Lake, Manitoba.

86979 Sept. 20—Authorizing the City of Winnipeg, Manitoba, to construct Kenaston Boulevard across the C.N.R. in the City of Winnipeg, Manitoba.

86980 Sept. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.N.R. tracks at Craik, Saskatchewan.

86981 Sept. 20—Authorizing the Manitoba Department of Public Works to re-align Highway No. 10 where it crosses the C.N.R. east of Section 28, Township 57, Range 26, W1M, Manitoba.

86982 Sept. 20—Authorizing the C.N.R. to construct a bridge over Opawica Lake, Quebec, at mileage 82·7 Beattyville-Chibougamau Line.

86983 Sept. 20—Extending the time within which the C.N.R. was required to install certain protection at crossing of Highway No. 2 at Brookdale Avenue, Cornwall, Ontario.

86984 Sept. 20—Authorizing the C.N.R. to construct an industrial spur to serve the plants of Canada Packers Limited and Kelly Douglas Limited, across the concrete conduit of Imperial Oil Limited at Prince Rupert, British Columbia.

86985 Sept. 21—Approving abandonment of operation of C.P.R. Stanstead Subdivision extending from mileage 2·2 to the end of the line at Stanstead Station, mileage 3·5, Stanstead Plain, Quebec.

86986 Sept. 21—In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

86987 Sept. 21—Requiring the C.P.R. to close, within the limits of its right-of-way, the two temporary highway crossings in Lots 10 and 11, Concession 4, Township of Etobicoke, County of York, Ontario, at mileage 10·87 Galt Subdivision.

86988 Sept. 21—Granting leave to the Trans-Canada Pipe Lines Limited to construct its proposed pipe line from a point on the Alberta-Saskatchewan border to Montreal and other places.

86989 Sept. 21—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Brookdale, Manitoba.

86990 Sept. 21—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near the C.P.R. tracks at Midale, Saskatchewan.

86991 Sept. 21—Authorizing the Quebec Department of Roads to relocate Highway No. 28 where it crosses the Quebec Central Railway Company in the Municipality of St. Victor de Tring, County of Beauce, Quebec.

86992 Sept. 21—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

86993 Sept. 21—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 2 near Nolan, Alberta.

86994 Sept. 21—Approving the removal of slow order at C.N.R. crossing of Moreau Street, near the old Moreau Street Station, Montreal, Quebec.

86995 Sept. 22—Approving agreement between The Bell Telephone Company of Canada and the Michigan Bell Telephone Company.

86996 Sept. 22—Approving the removal of slow order at C.P.R. crossing at mileage 49·73 Prescott Subdivision, Ontario.

86997 Sept. 22—Authorizing the C.P.R. to remove the station agent and appoint a caretaker agent at Ste. Marguerite Station, Quebec.

86998 Sept. 22—In the matter of the application of the C.P.R. and C.N.R. for authority to operate their engines over the re-located main lead track and passing track of The Toronto Harbour Commissioners, on Queen's Quay, Toronto, Ontario.

86999 Sept.22—Authorizing the C.N.R. and C.P.R. to operate through the interlocking at the crossing of their railways at mileage 47·7 Camrose Subdivision of the C.N.R., Alberta.

87000 Sept. 22—Authorizing the C.P.R. to operate its trains through the interlocking at the crossing of its Calgary to Edmonton Branch and the C.N.R.'s Edmonton Terminal Subdivision near South Edmonton, Alberta.

87001 Sept. 22—Authorizing the C.N.R. to discontinue the operation of trains Nos. 21 and 22 between Winnipeg and Gypsumville, Manitoba.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, NOVEMBER 1, 1955 No. 15

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In the matter of the General Freight Rates Investigation directed by Order in Council P.C. 1487 dated April 7, 1948 (Equalization Case) Part 2—Commodity Mileage Scales—Grain and Grain Products.

File No. 47828·3

— and —

In the matter of the application of the Railway Association of Canada for an Order rescinding G.O. No. 125, insofar as said Order gave effect to Part XX of the Judgment of the Board dated April 6, 1914, which inter alia prescribed a scale of local mileage rates on grain and grain products within Western Canada.

File No. 46921

Before:

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
O. A. MATTHEWS, *Commissioner.*

JUDGMENT

KEARNEY, J., Chief Commissioner:

The matter of the general equalization of "commodity" mileage scales pursuant to Section 336 of the Railway Act was set down for hearing at Ottawa on June 13, 1955, followed by a round-table conference to determine procedure. It was decided that the railways would present to the Board before October 15th next their proposals for equalized mileage scales on a number of commodities for which mileage scales are in effect in both Eastern Canada and Western Canada, but three other commodities, namely: grain, lumber and pulpwood, would be dealt with separately from the main body of commodity mileage rates, because circumstances and conditions in connection with these rates require special consideration.

Grain constitutes the commodity which is now to be considered herein, and it should be understood that where the expression "Grain" is used, it includes the products of grain as specified in the appropriate freight tariffs, unless otherwise stated.

62868—1

As bearing upon the problem of equalization, the local grain mileage rates within Western Canada have proved to be unusually difficult to deal with, for the following reasons:

(a) They were originally considerably higher than the eastern Canadian scale and remained so until 1948;

(b) Since the year 1947, the railways have only been permitted an increase in the western grain mileage scale of approximately 25 per cent (which took effect in 1952) plus 9 per cent and 7 per cent in the further general increase cases of the year 1953 (or a cumulative increase of 45·8 per cent), whereas the eastern rates since 1947 have been increased 98·2 per cent, thus reversing the former levels of the eastern and western rates;

(c) The grain rate situation in Western Canada was complicated by legal matters relating to the question of whether or not the local domestic rates were affected by the Crow's Nest Pass legislation.

The railways included the western domestic grain rates in the application of 1951 for a general percentage increase of 17 per cent in freight rates, but the Board directed this matter be made the subject of a separate application, because it would have delayed the proceedings in the 17 per cent case to have dealt with the complications in the western grain rates. In the separate application, filed in 1952, the railways changed the substance of their application, and requested that the eastern grain mileage scale be applied to Western Canada.

The Board held a hearing on this application and the evidence submitted showed that the western domestic grain mileage scale, on a revenue basis, was 52·7 per cent lower than the eastern scale. The Board permitted an interim increase of approximately 25 per cent (XLII J.O.R. & R. at pp. 233 and 236).

The legal questions involved in that case were set down for further hearing, and after all interested parties had made representations in the matter, the Board issued another Judgment on October 19, 1953, in which it was decided that the local domestic grain rates in Western Canada were not affected by the Crow's Nest Pass legislation (XLIII J.O.R. & R. 243). No action was taken to implement the Judgment for some time, in order that parties interested might have the opportunity to appeal the Judgment to the Supreme Court of Canada if anyone disagreed with the Board's decision. No appeal was made, however, and the Board finally issued Order No. 83896 on June 4, 1954, rescinding the "hold-down".

The equalization of freight rates can be accomplished by any one of four methods, as follows:

1. Applying the eastern rates to Western Canada.
2. Applying the western rates to Eastern Canada.
3. Making an average of the eastern and the western rates.
4. By some appropriate scale which might be made differently from any of the foregoing methods.

In the aforesaid case, the railways by their application suggested the first method, because of the circumstances involved in the matter. They asked only that the western rates be brought up to the level of the eastern scale, although the western rates, as stated, were originally prescribed by the Board in the Western Rates Case of 1914 on a scale which was greater than the eastern scale.

Having permitted an increase of about 25 per cent in the western domestic grain rates in 1952 on the application for an increase of 52·7 per cent, it would require in round figures a further increase of 20 per cent over the present rates to bring the western rates up to the level of the eastern scale.

However, a further interim increase of approximately 10 per cent over the present rates will be tentatively authorized as a further step towards equalization, but such increase will not be permitted to be implemented until sufficient

time has elapsed to allow all parties an opportunity of studying the matter and for the Board to give consideration to any suggested amendments or any other increase. The 10 per cent increase, therefore, will not become effective until January 1, 1956.

As to the technical construction of the scale as increased by 10 per cent: as stated in the prior Reasons for Judgment in this case (XLII J.O.R. & R. at p. 243), the progression of the rates for the various mileage blocks of the eastern scale was found unsuitable for Western Canada, and the Board therefore prescribed a revised scale for Western Canada with a uniform rate of progression in one-cent groups.

The original one-cent progression of the rate groups has already been distorted by the subsequent 9 per cent and 7 per cent increases, and would be again distorted by any further increase. Interested parties have therefore asked that the original progression be restored in any revised scale.

The present rate scale plus an assumed 10 per cent increase compared with the eastern scale is appended hereto as Schedule A.

While many rate groups would still retain the one-cent progression even with a 10 per cent increase, there would also be many inconsistencies; for example, the 5-mile block between 35 and 40 miles would have a difference of 2¢; between 100 and 110 miles there would also be a difference of 2¢; between 450 and 475 miles there would be a difference of 3¢; between 1,750 and 1,800 miles the difference would be 1¢, while from 1,800 to 1,850 miles there would be a 4¢ difference. A difference of 2¢ per 100 lbs. is equal to 1·2¢ per bushel of wheat; 3¢ is 1·8¢ per bushel, and 4¢ is 2·4¢ per bushel.

It is desirable that these erratic differences should be adjusted so that there is no more than a difference of one cent between one rate block and the next. As pointed out in the Reasons for Judgment *re* grain rates (Vol. XLII J.O.R. & R., 236):

> "The transportation of grain from one elevator versus another is affected by a difference per bushel of a fraction of a cent, and obviously any scale which progresses at the rate of 1·2 or 1·8 cents per bushel, for each mileage block, is bound to be impractical for Western Canada."

One of the milling companies which is interested in the technical construction of the grain scale, while not taking any position with regard to an increase in the present rates, has suggested the following method of restoring the one-cent gradations in the grain scale if, as and when any increase (or decrease) is made in the scale; other milling companies endorse the suggestion:

> Apply any authorized percentage increase (or decrease) at the commencement of the scale (5 miles) and at the points where the taper of the scale changes (i.e.: 40 miles, 140 miles, 400 miles and 800 miles) and at the end of the scale (2,200 miles). In the intervals between these mileages sufficient mileage blocks are to be created in one-cent gradations to make the scale progress in one-cent blocks from beginning to end.

The millers' scale, if a 10 per cent increase were assumed, is shown in Schedule B appended hereto.

In the original scale prescribed by the Board, the "tapering" effect of reducing the revenue per ton-mile for increasing distances was produced by enlarging the size of the mileage blocks at 40 miles, 140 miles, 400 miles and 800 miles, while continuing to make a one-cent difference in each block, as follows:

Minimum for 5 miles							6¢
Over 5 to 40	"		5-mile	blocks	of	1¢	each
" 40 to 140	"		10-mile	"	"	"	"
" 140 to 400	"		20-mile	"	"	"	"
" 400 to 800	"		25-mile	"	"	"	"
" 800 miles			50-mile	"	"	"	"

There was no particular virtue in changing the size of the groups at these mileages; they simply grew out of the effort to make a scale which would follow, as closely as possible, the general outline of the former western scale, but at a uniform rate of progression of one cent for each mileage block.

The essence of the millers' suggestion is that at any time when an increase (or decrease) is made in the grain mileage scale, such increase (or decrease) should be applied at the points where the size of the rate block changes, and then create sufficient mileage groups between these "points of taper" to provide a progression in one-cent blocks. The millers therefore suggest differing mileage blocks within the same range of taper, which we consider are not only awkward to apply, but the principle upon which they are made would generally result in each station being transferred into a different mileage group every time the rate scale was reconstructed. This method incidentally would destroy the long-established practice of making rates generally in typical groups of 5, 10, 20, 25, 40 and 50 miles.

The reconstruction of the scale, to eliminate the present uneven progression, and so that it will again progress in one-cent blocks, should therefore require the "taper" to change at mileages which differ from the original scale.

The following "key chart" with the accompanying explanatory statement illustrate the difficulty of adhering strictly to the method suggested by the millers, as the Board understands their proposal. In this chart the various scales have been numbered for ready reference:

KEY CHART

for

GRAIN & GRAIN PRODUCTS—LOCAL MILEAGE SCALES

(Rates in Cents per 100 lbs.)

	Western Rates				Eastern Rates	
Distances	Scale *No. 1* Original (Oct. '52)	Number of One-Cent Blocks in Original Scale	Scale *No. 2* 9% Increase	Scale *No. 3* 7% Increase	Scale *No. 4* 10% Increase over *No. 3*	Scale *No. 5* (Present Rates)
5 miles min.	6¢	1 block	6½¢	7¢	8¢	9¢
5-mile blocks to 40 miles	13¢	7 blocks	14¢	15¢	17¢	15¢
10-mile blocks to 140 miles	23¢	10 blocks	25¢	27¢	30¢	31¢
20-mile blocks to 400 miles	36¢	13 blocks	39¢	42¢	46¢	49¢
25-mile blocks to 800 miles	52¢	16 blocks	57¢	61¢	67¢	74¢
50-mile blocks to 2,200 miles	80¢	28 blocks	87¢	93¢	102¢	No rate

In the case of a 10 per cent increase (Scale No. 4) it will first be noted that from 5 to 40 miles there would be a difference of 9¢ per 100-lbs. for seven 5-mile groups. It is impossible however to fit any more 5-mile groups into the present scale between 5 and 40 miles, and the millers' suggestion is to divide these groups into 3-mile and 4-mile blocks.

On the millers' suggestion of a 30¢ rate at 140 miles, it would be necessary, with 10-mile blocks, to have a rate of 26¢ at 100 miles, or 2¢ higher than a straight 10 per cent increase. The millers therefore suggested 7-mile and 8-mile blocks, which make the rate 25¢ at 100 miles, or 1¢ higher than a 10 per cent increase.

Similarly, from 140 to 400 miles (now in 20-mile blocks) on a 10 per cent increase the difference would be 16¢ for 260 miles, and more 10-mile blocks would have to be created to fit into this difference, but with the intervening groups in several cases higher than a straight 10 per cent increase. The millers therefore suggested 16-mile and 17-mile blocks.

The same difficulties would occur at the other points where the present "taper" changes. It would therefore appear that, while the suggested method is excellent in theory and can be applied to some extent, nevertheless if adopted in toto it would create other difficulties in practice.

The railways have found somewhat the same objections in considering the millers' suggested method, and in their written submissions say that, contrary to maintaining the millers' formula of "tapering" the scale at 40, 140, 400 and 800 miles, it is their opinion that the uneven progressions in the rates caused by repeated disposition of decimals throughout succeeding rate adjustments should be levelled throughout the scale as a whole, rather than confined to the particular taper group in which they occur.

In their written submissions therefore they advocate a revised scale, (hereinafter sometimes referred to as the railways' scale), in which uniformity of progression is attained by the following method of "tapering" the scale:

Miles	*Amount of Increase*	*Mileage Block*	*Taper*
Up to 90.....	1¢ per	5-mile block	20¢ per 100 miles
91 to 200.....	1¢ per	10-mile block	10¢ per 100 miles
201 to 800.....	1¢ per	20-mile block	5¢ per 100 miles
801 to 1,000.....	1¢ per	25-mile block	4¢ per 100 miles
1,001 to 2,200.....	1¢ per	50-mile block	2¢ per 100 miles

The railways' scale is appended as Schedule C.

It will be noted, however, that this scale does not completely eliminate the maladjustments anticipated by the Board in analyzing the millers' suggestions. The proposed scale also fails to increase the present rates for distances from 25 to 45 miles. In several other groups it is below a 10 per cent increase. On the other hand, in the railways' scale the rate at 100 miles is fixed at 26¢, or 2¢ per 100-lbs. higher than a 10 per cent increase, thus making an increase of 18 per cent over the present rate of 22¢ for that distance. This is important as the largest individual movement of Grain and Grain Products shown by the 1954 Waybill Analysis occurred in the distance from 20 to 100 miles.

On the whole, however, the scale is a calculated effort to develop a rate scale to satisfy the present demand for a scale with a better rate of progression, and the Board considers that it should be submitted for consideration to the shipping public as one of the scales that should be dealt with in this case. It is to be noted that the railways in proposing their scale qualified their proposal by stating that they are willing to adopt the scale on a trial basis.

However, as stated herein, there are some difficulties already apparent in both the millers' scale and the railways' scale and, in an effort to meet these difficulties, the Board has given consideration to the original scale prescribed by the Board and has also made considerable study of the present situation and has devised a further scale for consideration of interested parties. This scale is appended hereto as Schedule D and is sometimes hereinafter referred to as the Board's scale.

In the original scale prescribed by the Board, the "tapering" effect of reducing the revenue per ton-mile was produced by enlarging the size of the mileage blocks while continuing to make a one-cent difference in each block.

The millers' suggestion of retaining the change in "taper" at 40, 140, 400 and 800 miles is too limited; the Board considers that more than four "guide-posts" should be used in a scale of this importance when increases (or decreases) are made in it. It appears to the Board therefore that it would be more desirable that the 10 per cent increase, for example, should be adhered to as closely as possible throughout the scale, and this can be accomplished by using the rate at each 100 miles as a "guide-post". Thus, with a 2,200-mile scale, there would be 22 "guide-posts", in addition to the beginning of the scale at the minimum of 5 miles.

The Board's scale has been constructed upon a combination of two methods, first: by using in principle the millers' suggestion of creating more mileage blocks between 5 and 240 miles, but making such mileage blocks upon the usual method of 5- and 10-mile blocks. However, as pointed out above, additional 5-mile blocks are impossible to add between 5 and 40 miles, and unless the scale commences at a higher minimum no increase could be applied and therefore some of the small mileage groups would not bear any burden of the proposed increase. Therefore, to remedy this situation, and if the Board's method of revising the scale were to be adopted, it is obvious that the Board's scale should commence with a minimum higher than 8 cents, and 9 cents is suggested. The waybill study for 1954 shows that there were no carloads transported in the minimum 5-mile group in either Western or Eastern Canada. A minimum rate of 9 cents is therefore of no importance, except as a stepping-stone towards a proper rate scale for distances beyond 5 miles.

The second method is to reduce the 25-mile blocks to 20 miles and the 50-mile blocks to 40 miles. It seems obvious that when substantial increases are made in a scale that originally was constructed in one-cent blocks, that the price of one cent buys less transportation, and for the longer distances the rate-blocks should be shortened accordingly. For example, a rate of one cent per 100 lbs. for 50 miles for the longer distances, as shown in the railways' scale, means only an increment of 20 cents per ton, or four-tenths of a cent per ton-mile, which is extremely low. Even the reduced mileage block of 40 miles only yields one half cent per ton-mile for additional movement.

It should be noted that owing to the intervening 9 per cent and 7 per cent general percentage increases the differences in the eastern scale in cents per block now range from 1¢ up to 7¢ per 100-lbs.: for example, between 75 and 100 miles the eastern scale now has an increment of 7¢ per 100-lbs.; between 125 and 150 miles, the increment is 5¢ per 100-lbs., whereas from 100 to 125 miles, the spread is only 1¢. It is apparent, therefore, that the eastern scale itself has some large spreads from one block to the next and when designing a final scale for equalization of domestic grain mileage rates this situation should be borne in mind.

The waybill study of 1954 discloses that in the eastern territory the maximum distance at which grain is moved is 1,189 miles but the mileage scale only runs to 800 miles and it is evident that the Eastern grain traffic over 800 miles moves at specific rates. In Western Canada, the longest example is 1,219 miles. The western scale however at present extends to 2,200 miles, which covers all local distances within Western Canada between Prince Rupert, British Columbia, and Port Arthur, Ontario.

The Railway Act provides that the Board may require any railway company "to establish for each article or group of articles for which mileage commodity rates are specified, a uniform scale of mileage commodity rates applicable *on its system* in Canada" (Section 336).

A scale up to 2,200 miles, however, appears to be all that is necessary in this instance, because any grain or flour traffic beyond that distance would move from Western Canada to Eastern Canada, (a) at the statutory Crow's Nest Pass rates to Port Arthur, Fort William or Armstrong, Ontario; and (b) at mileage or specific rates beyond these points.

If, however, there is any grain or grain products movement from Eastern to Western Canada, the scale finally adopted is to be applied for the through movement and extended to sufficient distance if necessary.

Incidental to the matter of the western domestic grain mileage scale, it may be noted that the Board has recently received two complaints alleging unjust discrimination with regard to the charging of the present rates on shipments of domestic grain westbound from the Prairies to British Columbia versus the statutory rates eastbound required by Section 328(5) of the Railway Act.

One complaint consists of a resolution passed by the City Council of Vancouver on July 4, 1955, requesting the Board—

> "to give immediate consideration to a review of the domestic rates on grain and grain products moving by the western grain route with the view of revising them downward in order that they may be fair and equitable and in keeping with rates on similar products moving by the eastern grain route."

The other complaint is from the Corporation of the District of Surrey at Cloverdale, B.C., endorsing the complaint of the City of Vancouver and requesting that—

> "action be taken to relieve British Columbia of this discriminatory domestic freight rate on grain and grain products which are causing products in this Province to be higher than necessary due to the excessive freight rate charged, as compared to what is paid for going much greater distances eastward."

One of the two rate scales mentioned in these complaints is not within the Board's jurisdiction, i.e.: the eastbound rates which are the statutory "Crow's Nest Pass" grain rates, and which are directed by Parliament in Section 328(5) of the Railway Act.

It may be pointed out that complaints involving unjust discrimination are usually dealt with, if proved, by an Order of the Board requiring the discrimination to be removed by the railways. In this case, however, the difference in treatment arises out of legislation by Parliament.

However, in order that all parties interested may "have their day in Court", these two complaints may be spoken to at the hearing which will be fixed regarding the grain mileage scales discussed herein.

As stated heretofore, it is the intention of the Board to allow sufficient time for interested parties to give consideration to the proposed scales and any other related matters, and to be heard in objection thereto if desired.

We have already received requests that a hearing be set down in this matter, and as all of the scales mentioned herein will be under consideration at such hearing, no Order of the Board is necessary at this time.

Accordingly, a hearing will be held at Ottawa in the latter part of November and notice of the date of such hearing will issue in due course.

JOHN D. KEARNEY,
Chief Commissioner.

I concur:
F. M. MacPHERSON.

I concur:
O. A. MATTHEWS.

OTTAWA, August 31, 1955.

SCHEDULE A

GRAIN AND GRAIN PRODUCTS

Miles	Western Canada		Eastern Canada
	Cents Per 100 lbs.		
	Present	*Incr. 10%	Present
5	7	8	9
10	8	9	11
15	9	10	13
20	10½	12	13
25	12	13	15
30	13	14	15
35	14	15	15
40	15	17	15
50	16	18	15
60	17	19	18
70	18	20	18
75	20	22	18
80	20	22	25
90	21	23	25
100	22	24	25
110	24	26	26
120	25	28	26
125	26	29	26
130	26	29	31
140	27	30	31
150	28	31	31
160	28	31	35
180	29	32	35
200	30	33	35
220	31	34	40
240	33	36	40
250	34	37	40
260	34	37	43
280	35	39	43
300	36	40	43
320	37	41	48
340	39	43	48
350	40	44	48
360	40	44	49
380	41	45	49
400	42	46	49
425	43	47	55
450	44	48	55
475	46	51	57
500	47	52	57
525	48	53	60
550	49	54	60
575	50	55	64
600	51	56	64
625	52	57	65
650	54	59	65
675	55	61	66
700	56	62	66
725	57	63	71
750	59	65	71
775	60	66	74
800	61	67	74
850	62	68	**
900	63	69	
950	64	70	
1000	65	72	
1050	66	73	
1100	67	74	
1150	68	75	
1200	70	77	
1250	71	78	
1300	73	80	
1350	74	81	
1400	75	83	
1450	76	84	
1500	77	85	
1550	78	86	
1600	79	87	
1650	80	88	
1700	81	89	
1750	82	90	
1800	83	91	
1850	86	95	
1900	87	96	
1950	88	97	
2000	89	98	
2050	90	99	
2100	91	100	
2150	92	101	
2200	93	102	

* Fractions disposed of to nearest cent.

** The Eastern Mileage Scale does not extend beyond 800 miles.

SCHEDULE B

Millers' Proposed Method of Increasing Western Grain Mileage Rates by 10%

Rates in Cents per 100 lbs.

Miles	*Cents*	*Miles*	*Cents*	*Miles*	*Cents*
5	7½	438	48	1640	88
8	9	457	49	1680	89
12	10	476	50	1720	90
16	11	495	51	1760	91
20	12	514	52	1800	92
24	13	533	53	1840	93
28	14	552	54	1880	94
32	15	571	55	1920	95
36	16	590	56	1960	96
40	17	609	57	2000	97
47	18	628	58	2040	98
54	19	647	59	2080	99
61	20	666	60	2120	100
68	21	685	61	2160	101
76	22	704	62	2200	102
84	23	723	63		
92	24	742	64		
100	25	761	65		
108	26	780	66		
116	27	800	67		
124	28	840	68		
132	29	880	69		
140	30	920	70		
156	31	960	71		
172	32	1000	72		
188	33	1040	73		
204	34	1080	74		
220	35	1120	75		
236	36	1160	76		
252	37	1200	77		
268	38	1240	78		
284	39	1280	79		
300	40	1320	80		
316	41	1360	81		
332	42	1400	82		
349	43	1440	83		
366	44	1480	84		
383	45	1520	85		
400	46	1560	86		
419	47	1600	87		

SCHEDULE C

Statement showing Railways' Proposed Mileage Scale on Grain and Grain Products between Points in Western Canada, compared with present rates plus a 10% Increase

Miles	At Actual 10% Increase	At Railways' Scale	Miles	At Actual 10% Increase	At Railways' Scale
5	*8	8	620	57	57
10	9	9	625	57	58
15	10	10	640	59	58
20	12	11	650	59	59
25	13	12	660	61	59
30	14	13	675	61	60
35	15	14	680	62	60
40	17	15	700	62	61
45	18	16	720	63	62
50	18	17	725	63	63
55	19	18	740	65	63
60	19	19	750	65	64
65	20	20	760	66	64
70	20	21	775	66	65
75	22	22	780	67	65
80	22	23	800	67	66
85	23	24	825	68	67
90	23	25	850	68	68
100	24	26	875	69	69
110	26	27	900	69	70
120	28	28	925	70	71
130	29	29	950	70	72
140	30	30	975	72	73
150	31	31	1000	72	74
160	31	32	1050	73	75
170	32	33	1100	74	76
180	32	34	1150	75	77
190	33	35	1200	77	78
200	33	36	1250	78	79
220	34	37	1300	80	80
240	36	38	1350	81	81
260	37	39	1400	83	82
280	39	40	1450	84	83
300	40	41	1500	85	84
320	41	42	1550	86	85
340	43	43	1600	87	86
360	44	44	1650	88	87
380	45	45	1700	89	88
400	46	46	1750	90	89
420	47	47	1800	91	90

Miles	At Actual 10% Increase	At Railways' Scale
425	47	48
440	48	48
450	48	49
460	51	49
475	51	50
480	52	50
500	52	51
520	53	52
525	53	53
540	54	53
550	54	54
560	55	54
575	55	55
580	56	55
600	56	56
1850	95	91
1900	96	92
1950	97	93
2000	98	94
2050	99	95
2100	100	96
2150	101	97
2200	102	98

* Fraction disposed of to nearest cent.

SCHEDULE D

Western Canada Domestic Grain & Grain Products
Rates in Cents per 100 Lbs.

Miles	Suggested B.T.C. Scale	Miles	Suggested B.T.C. Scale
5	9	660	59
10	10	680	60
15	11	700	61
20	12	720	62
25	13	740	63
30	14	760	64
35	15	780	65
40	16	800	66
45	17	820	67
50	18	840	68
55	19	880	69
60	20	920	70
70	21	960	71
80	22	1000	72
90	23	1040	73
100	24	1080	74
110	25	1120	75
120	26	1160	76
130	27	1200	77
140	30	1240	78

Miles	Suggested B.T.C. Scale	Miles	Suggested B.T.C. Scale
150	29	1280	79
160	30	1320	80
170	31	1360	81
180	32	1400	82
190	33	1440	83
200	34	1480	84
210	35	1520	85
220	36	1560	86
230	37	1600	87
240	38	1640	88
260	39	1680	89
280	40	1720	90
300	41	1760	91
320	42	1800	92
340	43	1840	93
360	44	1880	94
380	45	1920	95
400	46	1960	96
420	47	2000	97
440	48	2040	98
460	49	2080	99
480	50	2120	100
500	51	2160	101
520	52	2200	102
540	53		
560	54		
580	55		
600	56		
620	57		
640	58		

In the matter of the application of the Canadian National Railways, under Sections 33, 34, 315 and all other relevant sections of the Railway Act, for an Order authorizing immediate discontinuance of the operation of their passenger trains No. 397 and No. 398 between Bathurst and Tracadie, in the Province of New Brunswick.

File No. 33969

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

Mr. J. W. G. MACDOUGALL, for the Canadian National Railways.
Mr. A. M. ROBICHAUD, Q.C., for the Bathurst Board of Trade.
Mr. F. J. ROBICHAUD, for the Shippigan Chamber of Commerce.
Dr. W. LUCE, for the Tracadie Board of Trade.
Mr. J. A. DOUCET, M.L.A., for Paquetville, N.B.
Mr. FRED YOUNG, M.L.A., for Caraquet, N.B.
Mr. MICHEL F. FOURNIER, M.L.A., for Green Point, N.B.
Mr. J. P. CHIASSON, for the Gloucester County and the Shippigan-Miscou Chamber of Commerce.
Mr. GLENDON EDDY, for Bathurst, N.B.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

This case was heard on the 23rd of June, 1955, at Bathurst, N.B. and the railway company applied for leave to discontinue operation of Trains Nos. 397 and 398 between Bathurst and Tracadie, N.B.

PRESENT SERVICE

Canadian National Railways provide passenger service between Bathurst and Tracadie on the Caraquet Subdivision, a distance of 72·7 miles, by means of Trains 397 and 398, which also operate over the Shippigan Subdivision between Pokemouche Junction and Shippigan, a distance of 6·8 miles. Train 397 leaves Tracadie at 7:00 a.m. and proceeds to Pokemouche Junction where it operates to Shippigan and return and then continues to Bathurst, arriving at that point at 11:00 a.m. Train 398 leaves Bathurst at 2:40 p.m. and goes to Shippigan, returning to Pokemouche Junction and continuing on to Tracadie, arriving at that point 6:55 p.m. This service is operated daily except Sunday with Tracadie the home terminal of the assignment. In addition to the rail service the Canadian National Railways have an agreement with the Gloucester Motor Coach Lines whereby through passengers will be carried by motor coach and the Railway reimburses the motor coach line for their portion of the haul. Bus schedules are shown on the public timetable issued by the Railway, as will be seen on Table 34A, page 7, of the exhibited Canadian National Railways Timetable.

Equipment used in this service consists of an oil-electric Beardmore Unit and trailer. Unit is divided into an express and baggage compartment in addition to the engine and control room. Trailer has a seating capacity of 18 persons and is divided into a passenger carrying section and an R.P.O. unit for handling mail. Mail is sorted enroute and delivered to various post offices and there are two mail clerks engaged in this work. The train is manned by a four-man crew consisting of Conductor, Engineman, Trainman and Baggageman. In the event that these trains were discontinued they would exercise their seniority on

Seniority District. Staff at Tracadie consists of a Car Cleaner and Engine Maintainer and if service is terminated these men will undoubtedly be displaced. In addition to the passenger service operated on this subdivision, there is also a wayfreight which leaves Bathurst on Mondays, Wednesdays and Fridays, operating through Tracadie via Shippigan and returning on Tuesdays, Thursdays and Saturdays. L.C.L. freight is trucked between Bathurst and Tracadie daily except Sunday and the Railway has two five-ton trucks working in this service.

BUS SERVICE

Gloucester Motor Coach Lines, owned and operated by Mr. Mourant of Caraquet, provide a bus service daily between Bathurst and Tracadie via Shippigan. Schedules are as shown on Table 34A, page 7, of Canadian National Railways public timetable. Busses operate twice daily during the week and once on Sunday and provide a connection with Canadian National trains at Bathurst on the main line. Through passengers have the option of using the bus service in lieu of train service under an agreement in existence between the two carriers, the Railway reimbursing the motor coach line for their portion of any such hauls. Gloucester Motor Coach Lines possess three vehicles, two of which have seating capacity for 35 persons, while the third will seat 37. Bus route is over Provincial Highways 11 and 13 and they do not operate over any secondary roads in the area. Consequently, they do not pass through the villages of St. Leolin, Burnsville, Upper Bertrand and Bertrand, where the Railway line diverges from Highway 11 between Grand Anse and Caraquet. Neither do the busses pass through the villages of Waugh and Inkerman Ferry, where the Rail line passes to the North of the Pokemouch River, while Highway No. 13 is to the South of the river.

A few briefs from different Chambers of Commerce were presented to us and many witnesses were heard. All objected to the cancellation of the two trains in question and more particularly for the following reasons:

1st:—The delay that would result in mail service because at the present time mail is sorted on the trains and distributed at the different stations where these trains stop.

2nd:—Winters are hard; there are heavy snowfalls; and the secondary roads, specially between Grand Anse and Burnsville, are blocked during and after snowstorms and impassable during spring thaw.

The population served by the railway line is of about 35,000 souls and I am of the opinion that it would be unfair to expose these people to be deprived of some means of communication during the bad season.

It is true that revenues from passenger service on that line are not very high, but in my opinion the convenience of the public and the public interest outweigh the reasons given by the railway.

Consequently this application is granted in part only. I would allow discontinuance of service of trains 397 and 398 from the 15th of April to the 15th of November during each year provided that a bus service is being operated during that period and that they be required to operate a passenger service in each direction daily except Sunday either as a straight passenger service or as a mixed train from the 15th of November to the 15th of April.

Order to go accordingly.

A. SYLVESTRE.

OTTAWA, September 14th, 1955.

I concur:

H. B. CHASE.

ORDER No. 86957

In the matter of the application of the Canadian National Railways, under sections 33, 34, 315 and all other relevant sections of the Railway Act, for an Order authorizing immediate discontinuance of the operation of their passenger trains No. 397 and No. 398 between Bathurst and Tracadie, in the Province of New Brunswick:

File No. 33969

WEDNESDAY, the 14th day of September, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Bathurst, New Brunswick, on the 23rd day of June, 1955, in the presence of Counsel for the Canadian National Railways and the Bathurst Board of Trade, and representatives of Shippigan Chamber of Commerce, the Tracadie Board of Trade, the Town of Paquetville, New Brunswick, the Town of Caraquet, New Brunswick, the Town of Green Point, New Brunswick, the Gloucester County and the Shippigan-Miscou Chamber of Commerce and the Town of Bathurst, New Brunswick—

It is ordered

1. That between the 15th day of April and the 15th day of November during each year the Canadian National Railways be, and they are hereby, authorized to discontinue the service of trains No. 397 and No. 398 between Bathurst and Tracadie, in the Province of New Brunswick, provided a bus service is operated during that period.

2. That between the 15th day of November and the 15th day of April during each year the Canadian National Railways be, and they are hereby, ordered to operate a passenger service in each direction daily except Sunday, either as a straight passenger service or as a mixed train, between Bathurst and Tracadie, in the Province of New Brunswick.

A. SYLVESTRE,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87002 Sept. 23—In the matter of the application of the C.P.R. on behalf of Royalite Oil Company Limited, for approval of crude oil loading facilities at Boissevain, Manitoba.

87003 Sept. 23—Authorizing the C.P.R. to operate the timber trestle at mileage 18·1 Hoadley Subdivision, Alberta.

87004 Sept. 23—Authorizing the Municipal District of Wainwright No. 61, Alberta, to improve the sight lines at the crossing of the highway and the C.N.R. at mileage 128·28 Unity Subdivision.

87005 Sept. 23—Authorizing the Village of Vauxhall, Alberta, to construct the highway across the C.P.R. at mileage 49·76 Suffield Subdivision.

87006 Sept. 23—Authorizing the C.N.R. to operate the bridge at mileage 56·29 Uxbridge Subdivision, Ontario.

87007 Sept. 23—Permitting the removal of slow order at C.N.R. crossing of Jones Sideroad west of Winona, Ontario.

87008 Sept. 23—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 62 north of station at Locksley, Ontario.

87009 Sept. 23—Permitting the removal of slow order at C.N.R. crossing of D'Arcy Street, Town of Cobourg, Ontario.

87010 Sept. 23—Requiring the C.P.R. to install protection at the crossing of the railway and Highway No. 2 near High River, Alberta.

87011 Sept. 23—Permitting the removal of slow order at C.N.R. crossing and Gray's Road at Stoney Creek, Ontario.

87012 Sept. 23—Authorizing the C.N.R. to reconstruct the west approach to the steel bridge over the Minnedosa River, Manitoba.

87013 Sept. 23—Authorizing the C.N.R. to reconstruct the timber bridge over the Pikwitonei River, Manitoba.

87014 Sept. 23—Authorizing the C.N.R. to operate the bridge over the Still River, Ontario, at mileage 46·1 Sudbury Subdivision.

87015 Sept. 23—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the C.P.R. tracks at Eastend, Saskatchewan.

87016 Sept. 23—Authorizing the Township of Scarboro to widen Pharmacy Avenue where it crosses the C.P.R. in the Township of Scarboro, Ontario, at mileage 99·47 Oshawa Subdivision.

87017 Sept. 23—Requiring the C.P.R. to install certain protection at the crossing of the railway and the Highway No. 23 near Monarch, Alberta.

87018 Sept. 26—Permitting the removal of slow order at C.N.R. crossing first public road crossing north of the station at Anson, Ontario.

87019 Sept. 26—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at Windsor Terminal, Ontario.

87020 Sept. 26—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at Sudbury, Ontario.

87021 Sept. 27—Authorizing the C.N.R. to construct the siding to serve General Foods Limited across Ontario Street in the Town of Cobourg, Ontario.

87022 Sept. 27—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Mr. Omer Guevremont, Proprietor of Le Téléphone Guevremont.

87023 Sept. 27—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near the C.P.R. tracks at Pennant, Saskatchewan.

87024 Sept. 27—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at MacGregor, Manitoba.

87025 Sept. 27—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Plunkett, Saskatchewan.

87026 Sept. 27—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Francis, Saskatchewan.

87027 Sept. 27—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited showing proposed location of storage tanks, etc. at Virden, Manitoba.

87028 Sept. 27—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Fife Lake, Saskatchewan.

87029 Sept. 27—Relieving the C.P.R. from erecting and maintaining railway fencing on both sides of its railway between mileage 0·00 and mileage 8·57 Mitford Southwesterly Subdivision, Alberta.

87030 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Marwayne, Alberta.

87031 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited showing proposed location of storage tanks, etc. at Arborg, Manitoba.

87032 Sept. 28—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87033 Sept. 28—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the North River Telephone Association.

87034 Sept. 28—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 86062 to install protection at the crossing of their railway and Greenwood Avenue, Toronto, Ontario.

87035 Sept. 28—Authorizing the C.N.R. to construct a coal trestle at Camp Gagetown, New Brunswick.

87036 Sept. 28—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 84606 to install certain protection at the crossing of Steele Street, Port Colborne, Ontario.

87037 Sept. 28—In the matter of the application of the C.N.R. for a review of the Board of the question of protection at Dalhousie and Clarence Streets where they cross the C.N.R. at Brantford, Ontario.

87038 Sept. 28—Permitting the removal of slow order at C.N.R. crossing first crossing west of the station at Norris Arm, Newfoundland.

87039 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Glenboro, Manitoba.

87040 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Myrnam, Alberta.

87041 Sept. 28—Permitting the removal of slow order at C.N.R. crossing first east of Bells Corners, Ontario.

87042 Sept. 28—Permitting the removal of slow order at C.N.R. crossing at Hannibal Street, Smiths Falls, Ontario.

87043 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Teulon, Manitoba.

87044 Sept. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Kenora, Ontario.

87045 Sept. 29—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Birtle, Manitoba.

87046 Sept. 29—Authorizing the C.N.R. to reconstruct the portion of their bridge structure near Rochfort Bridge at mileage 68·0 Sangudo Subdivision, Alberta.

87047 Sept. 29—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

87048 Sept. 29—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Cranbrook, British Columbia.

87049 Sept. 29—Approving operation of Great Northern Railway Company's trains over the private siding serving Simmons Limited, Vancouver, British Columbia.

87050 Sept. 29—Authorizing the Quebec Department of Roads to widen and relocate Fournier Road where it crosses the C.N.R. at mileage 73·53 Montmagny Subdivision, Quebec.

87051 Sept. 29—Approving Traffic Agreement between the Bell Telephone Company of Canada and the Minister of Transport for Canada.

87052 Sept. 29—In the matter of the application of the Quebec Department of Roads for installation of automatic protection at the crossing of Highway No. 23 and the C.P.R. in Notre Dame de la Providence, Quebec.

87053 Sept. 29—Authorizing the C.P.R. to install an additional span immediately adjacent to the south side of its existing James Street subway in the City of Fort William, Ontario.

87054 Sept. 29—Authorizing the Saskatchewan Power Corporation to construct a power line across the Interprovincial Pipe Line Company in the southwest quarter of Section 17, Twp. 14, Range 8, West 2nd Meridian, Saskatchewan.

87055 Sept. 29—Approving certain clearances on lead track serving the Ford Motor Company of Canada Limited, Calgary, Alberta.

87056 Sept. 29—Authorizing the City of Winnipeg, Manitoba, to construct Donald Street South across the private siding of the C.N.R. serving the Winnipeg Paint and Glass Company, Winnipeg, Manitoba.

87057 Sept. 29—Authorizing the Great Northern Railway Company to install certain protection at the crossing of Venables Street, Vancouver, British Columbia.

87058 Sept. 29—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariff filed by the Dominion Atlantic Railway Company under Sections 3 and 8.

87059 Sept. 29—Authorizing the Rural Municipality of Lac Pelletier No. 107, Saskatchewan, to construct the highway across the C.P.R. at mileage 22·1 Vanguard Subdivision, Saskatchewan.

87060 Sept. 29—Authorizing the C.N.R. to operate their trains through the interlocking at Charny, Quebec.

87061 Sept. 30—Dismissing application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Superb, Saskatchewan.

87062 Sept. 30—Authorizing the Saskatchewan Department of Highways to relocate the highway where it crosses the C.N.R. in the Province of Saskatchewan at mileage 91·5 Hudson Bay-Melfort Line.

87063 Sept. 30—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Petersfield, Manitoba.

87064 Sept. 30—Authorizing the Saskatchewan Power Corporation to construct the natural gas pipe line across the right-of-way of the Interprovincial Pipe Line Company in the Province of Saskatchewan.

87065 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Dryden, Ontario.

87066 Sept. 30—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Hanley, Saskatchewan.

87067 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks at Milden, Saskatchewan.

87068 Sept. 30—Dismissing the application of the C.N.R. for authority to remove the station agent at Peesane, Saskatchewan.

87069 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing the proposed location of storage tanks at Carberry, Manitoba.

87070 Sept. 30—Permitting removal of slow order at C.N.R. crossing south of station at Elora, Ontario.

87071 Sept. 30—Approving under the Maritime Freight Rates Act tolls, published in Supplements to Tariff, filed by the Dominion Atlantic Railway Company under Section 8.

87072 Sept. 30—Permitting removal of slow order at C.N.R. crossing north of station at Ayton, Ontario.

87073 Sept. 30—Relieving the C.P.R. from erecting cattleguards at certain crossing on its Sutherland Subdivision, Saskatchewan.

87074 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Carnduff, Saskatchewan.

87075 Sept. 30—Permitting removal of slow order at C.P.R. crossing at Rockland, New Brunswick.

87076 Sept. 30—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Rush Lake, Saskatchewan.

87077 Sept. 30—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Shell Lake, Saskatchewan.

87078 Sept. 30—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks at Dugald, Manitoba.

87079 Sept. 30—Authorizing the C.N.R. to reconstruct timber bridge over a creek at mile 172·3, Gladstone Subdivision, Manitoba.

87080 Oct. 3—Authorizing the West Coast Transmission Company Limited to carry its company pipe line across the Trans Canada Highway in the Province of British Columbia.

87081 Oct. 3—Approving detailed plan showing crossing of Westcoast Transmission Company Limited pipe line and the C.N.R. at mile 68·18 Yale Subdivision, British Columbia.

87082 Oct. 3—Authorizing the C.P.R. to operate over the pedestrian right-of-way between Second and Third Streets, City of Medicine Hat, Alberta.

87083 Oct. 3—Authorizing the C.N.R. to construct a private road over the pipe line of Trans-Northern Pipe Line Company, in the Town of Oakville, Ontario.

87084 Oct. 3—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 85929, dated April 7, 1955, to install certain protection at the crossing of Ottawa Street in the City of Hamilton, Ontario.

87085 Oct. 4—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 85938 dated April 12, 1955, to install certain protection at the crossing of Gage Avenue, Hamilton, Ontario.

87086 Oct. 4—In the matter of application of the C.N.R. for approval of plan showing relocation of Portage Road at mile 1·17 Queenston Quarries Spur, Ontario.

87087 Oct. 4—Permitting the removal of slow order at C.N.R. crossing of Gage Avenue, Hamilton, Ontario.

87088 Oct. 4—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Limoges, Ontario.

87089 Oct. 4—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Ridgedale, Saskatchewan.

87090 Oct. 4—Authorizing the Township of Trafalgar, Ontario, to construct a watermain under the pipe line of the Trans-Northern Pipe Line Company in the Township of Trafalgar.

87091 Oct. 4—In the matter of application of Northern Alberta Railways Company for an order extending the time within which it was exempted by Order No. 73388 from complying with certain requirements of the Board's regulations for the transportation of explosives and other dangerous articles by freight, etc.

87092 Oct. 5—In the matter of application of the C.N.R. for an order extending the time within which certain protection is to be installed at Woodward Avenue, Hamilton, Ontario.

87093 Oct. 5—In the matter of approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at Richmond, Quebec.

87094 Oct. 5—Authorizing the C.P.R. to close the crossing of its railway and the highway in the Northeast quarter of Section 20, Township 35, Range 12, West 3rd Meridian, Saskatchewan.

87095 Oct. 5—Approving supplement to Traffic Agreement between The Bell Telephone Company and the Aylmer and Malahide Telephone Company Limited.

87096 Oct. 5—Permitting the removal of slow order at the crossing of Fitch Street and the Niagara, St. Catharines and Toronto Railway, Welland, Ontario.

87097 Oct. 5—Permitting the removal of slow order at C.N.R. crossing in the Township of Cornwall, Ontario.

87098 Oct. 5—Authorizing the Municipality of Ste. Marie Salome, Quebec, to make certain changes at the crossing of highway and the C.N.R. in this municipality.

87099 Oct. 5—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 82376 to install certain protection at the crossing of Highway No. 25A at St. Damien, Quebec.

87100 Oct. 5—In the matter of application of the New York Central Railroad Company to discontinue station facilities at New Erin, Quebec.

87101 Oct. 5—Authorizing the C.N.R. to reconstruct the bridge over Hoards Creek, Ontario, at mile 23·3 Campbellford Subdivision, Ontario.

87102 Oct. 5—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Griswold, Manitoba.

87103 Oct. 6—Authorizing the C.N.R. to construct their passing track at Undora, Saskatchewan.

87104 Oct. 6—Authorizing the Municipal Corporation of the Parish of St. Remi du Lac aux Sables, Quebec, to widen the highway where it crosses the C.N.R. in this parish.

87105 Oct. 6—Permitting the removal of slow order at C.P.R. crossing at Midway, British Columbia.

87106 Oct. 6—Permitting the removal of slow order at C.P.R. crossing of Westside Drive at the west of Obico, Ontario.

87107 Oct. 6—Permitting the removal of slow order at C.P.R. crossing at mile 43·7 Okanagan Subdivision, British Columbia.

87108 Oct. 6—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 85946 to install certain protection at the crossing of Lottridge Avenue, Hamilton, Ontario.

87109 Oct. 6—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 85935 to install certain protection at St. Leger Street, Kitchener, Ontario.

87110 Oct. 6—Authorizing the C.N.R. to construct and maintain an extension of their passing track in the Village of Hubbard, Saskatchewan.

87111 Oct. 6—Authorizing the International Nickel Company of Canada Limited to carry out mining operations adjacent to the right-of-way of the C.P.R. in McKim Township, Ontario.

87112 Oct. 6—Approving proposed location of storage tanks of Imperial Oil Limited near tracks of the C.P.R. at Stewart Valley, Saskatchewan.

87113 Oct. 6—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 85969 to install certain protection at the crossing of the C.P.R. and C.N.R. interchange track and Dundas Street in the City of London, Ontario.

87114 Oct. 6—In the matter of approval of plan submitted to the C.N.R. by Hugh Gas Limited showing proposed location of storage tanks, etc. at Prince Albert, Saskatchewan.

87115 Oct. 6—In the matter of application of C.N.R. for an order extending the time within which they were required by Order No. 85973, dated April 14, 1955, to install certain protection at the crossing of the railway and King Street in the Village of Hensall, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, NOVEMBER 15, 1955 No. 16

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In the matter of the application of the Canadian National Railways, under Section 259 and all other relevant sections of the Railway Act, for an order authorizing them to cross McCowan Road with three tracks, Brimley Road with three tracks and the unopened road allowance with one track, all located in their Scarborough Yard, at Scarborough, Ontario, and shown on Plan C-15993, revised to September 10th, 1954.

File No. 22773·7

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Heard at:

TORONTO, Ontario, on April 25th, 1955.

Appearances:

W. G. BOYD and H. J. G. PYE, for the Canadian National Railways.

HOLLIS E. BECKETT, Q.C., for the Township of Scarborough.

JUDGMENT

WARDROPE, Assistant Chief Commissioner:

By Order in Council P.C. 149 dated 2nd February, 1926, the Canadian National Railways obtained approval *inter alia* to purchase a tract of land some 340 acres in extent at Scarborough Junction. The principal purposes for which this land was to be purchased were firstly, to obtain fill for the Toronto viaduct work and secondly, on the removal of the fill and the grading of this land to use it as a site for classification yards and an engine terminal, etc. for the Canadian National Railways, hereinafter referred to as the "Railway".

62867—1

Except for the construction of relatively short storage tracks the Railway has taken no further action in the intervening years to establish a yard or other facilities at this point.

The Railway now proposes to construct on this land in the interests of expanding local industry and improvement of its own facilities, three 100-car tracks to the south of its main line. These tracks would lead from its main line on the west just east of Midland Avenue, then proceed in an easterly direction across an unopened street, then across Brimley Road and McCowan Road, and would re-join the main line just west of Eglinton Avenue.

The application of the Railway is for an Order under Section 259 of the Railway Act and all other relevant Sections thereof authorizing it to cross McCowan Road with three tracks, Brimley Road with three tracks and the unopened road with one track.

This application was heard in Toronto on April 25th, 1955. The Board heard considerable evidence not only on behalf of the Railway's application but also in opposition thereto by the Township and Planning Board of the Township of Scarborough and many local residents who felt they would be detrimentally affected if the tracks were constructed. However, upon receipt of the Transcript of Evidence and a further study of the whole matter, the Board was not satisfied that it had all the information it required to reach what it thought would be a proper decision in the matter. Accordingly the Board caused to be made further investigation on the ground by its Engineering and Operating Departments.

Upon receipt of the reports from these two Departments, together with the information we received at the Hearing, and after a further study of the Board's jurisdiction the Board felt justified in issuing Order No. 86534, dated the 7th day of July, 1955, authorizing the construction at the Railway's expense of the proposed three tracks across McCowan Road, three tracks across Brimley Road, and one track across the unopened road allowance, as above mentioned. The Order also stated that reasons for the granting of the Order would be published at a later date.

As to the purpose of the tracks in question, the Railway states that because of the industrial expansion of Toronto generally and Scarborough in particular, these tracks are essential if the Railway is to be able to give adequate service to the present and prospective industries in that area.

At the present time all traffic from the area destined to Scarborough industrial area must be handled through Danforth which is located two miles west of the proposed yard. This traffic is then moved back to Scarborough, over a one per cent ascending grade for distribution to the various industries in the Scarborough area.

A yard located at the proposed location would enable the Railway to set out the Scarborough traffic in this new area and eliminate the backhaul above referred to. The yard would also serve as an industrial support yard for the industries located in this area and enable the Railway to better serve the local industries.

The Railway's representatives informed the Board that in so far as the necessity for 100-car tracks is concerned it is intended to have main line freight trains pull into this yard to set out or pick up cars and it is desirable to provide sufficient trackage to enable these trains to clear the main tracks. It was also stated that under existing conditions the Westward passing track at Scarborough is frequently occupied with cars for the industries and as a result cannot accommodate Westward trains that may wish to clear a following pasenger train.

Summarizing the objections to the application, which I may say were strongly urged upon the Board in all sincerity, not only by the Counsel and Planning Board of the Township of Scarborough but also by many residents, mostly young War Veterans with growing families who had purchased lands to the south of the proposed yard under the Veterans Lands Act, I would state them principally to be as follows:—

That although it was commonly known locally that the lands in question were railway lands, the original purpose for which the lands had been obtained, i.e. classification yards, engine terminal, etc., had never been known or realized by those who acquired adjacent property for residential purposes:

That if the construction of the tracks in question were to be proceeded with the properties to the south would be detrimentally affected:

That this yard would create a great hazard to the safety of the many children in the neighbourhood:

And that the crossing of Brimley and McCowan Roads by these tracks would be hazardous and inconvenient to vehicular traffic and would increase the dangers at the main line crossing of these roads.

These objections were directed to the Board with the view of persuading the Board to refuse in toto the construction of the proposed trackage. This of course raised the question of the extent of the Board's jurisdiction and at the Hearing the Board asked Counsel to discuss it. In other words, in the case before us, would the Board, if it thought proper, have the power to deny the Railway the use of its land for the purposes stated—or would the Board's powers extend only in so far as the safety and protection of the public at the proposed highway crossings was concerned. Since the Hearing the Board has given this matter further consideration.

The Railway's application was made under Section 259 of the Railway Act, subsections 1 and 2 of which read as follows:—

> "(1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.
>
> (2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing."

Although the Section states that the Board "may, by Order, grant such application in whole or in part", I think the Board may also refuse an application. The Section, it will be noted, applies to applications to construct a highway across a railway as well as a railway across a highway and the Board has refused applications by municipalities for leave to construct highways across railways.

However, I would qualify the above statement by saying I do not think the Board has jurisdiction to make an Order refusing an application for leave to construct a crossing which would result in a denial or prohibition of a right conferred by Parliament to construct a railway or railway facility.

It follows then that if the Railway has a right, as I think it has in this case, flowing through the Canadian National Railway Act, to construct a particular railway facility and if the crossing of certain highways is necessarily incidental to such right, the Board, in my opinion, cannot question the Railway's right to the crossings but of course the Board has power to make appropriate Orders for the protection, safety and convenience of the public in respect of the crossings.

If I am correct in this interpretation, the result in the present case is that our jurisdiction extends only to the manner in which the Railway may cross the highways in question.

As stated above, the Board's Engineering and Operating Departments made a thorough investigation on the ground following the Hearing. Upon these reports and upon what was stated at the Hearing we find that the construction of the proposed trackage over the highways involved would not add any additional hazards to the main line crossings of these roads since the main line is located a sufficient distance north of the proposed tracks to prevent any restriction of the existing views at the aforesaid main line crossings.

The crossings of the yard or proposed tracks could be protected adequately by having a Yardman on the ground when cars not headed by an engine are moving over these crossings. There is no doubt of course that the construction of the crossings will not only result in inconvenience to the Railway operations but also to the public as it can be anticipated that when long trains are pulling into this yard at slow speed the crossings will be blocked for some time.

While the Board is anything but unsympathetic to the objections earnestly stated against the construction of the tracks, even if it could entertain them, it must be borne in mind that inevitably industrial expansion, which is so eagerly sought, brings with it other factors which, although seemingly undesirable, are yet essential to its life and growth. Expansion of transportation facilities with its concomitant impingement upon persons or property may be just one. However, in the present case, with regard to the objections of those living in the residential area to the south, the Board's officers report that this area is located on higher ground, five to six hundred feet distant from the proposed tracks, and trees bordering this residential area to the north provide an effective screen for this yard area from the residential section. Under all the circumstances it is hoped that the apprehensions expressed to us, if not altogether groundless, will not be as formidable as anticipated.

HUGH WARDROPE.

AUGUST 30, 1955.

I concur:

H. B. CHASE.

I concur:

O. A. MATTHEWS.

ORDER No. 86534

In the matter of the application of the Canadian National Railways, under section 259 and all other relevant sections of the Railway Act, for an Order authorizing them to cross McCowan Road with three tracks, Brimley Road with three tracks and the unopened road allowance with one track, all located in their Scarborough Yard, at Scarborough, Ontario, as shown on Plan No. C-15993, revised to September 10, 1954, on file with the Board under file No. 22773·7:

THURSDAY, the 7th day of July, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at a sitting of the Board at Toronto on April 25, 1955, in the presence of Counsel for Canadian National Railways and for the Township of Scarborough, and upon consideration of the submissions filed and for reasons that will be published at a later date—

It is ordered that Canadian National Railways be, and they are hereby, authorized to construct and maintain at their own expense the said proposed three tracks across McCowan Road, three tracks across Brimley Road and one track across the unopened road allowance, all located in Scarborough Yard at Scarborough, Ontario, as shown on Plan No. C-15993, revised to September 10, 1954, on file with the Board under file No. 22773·7; the said crossings to be constructed in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

HUGH WARDROPE,
Assistant Chief Commissioner,

INTERIM ORDER No. 87209

In the matter of the application of the Vancouver Merchants' Exchange Limited, in respect of export rates on Flaxseed and Rape Seed from Prairie points to Pacific Coast ports:

File No. 30637·1

WEDNESDAY, the 19th day of October, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon consideration of the submissions filed, and upon hearing the matter at a sitting of the Board at Vancouver on April 5, 1955, in the presence of Counsel for the applicant, Canadian Pacific Railway Company and Canadian National Railways, and the Board having determined to grant the relief hereinafter ordered and, instead of making a final order, to make this interim order pending further consideration and hearing of the application or further application at a time and place to be fixed, of which due notice will be given and to which the hearing of the matter is hereby adjourned—

It is ordered that Canadian Pacific Railway Company and Canadian National Railways be, and they are hereby, required forthwith to publish rates, to become effective on statutory notice, on Flaxseed in carloads from points in the Provinces of Manitoba, Saskatchewan and Alberta to Pacific Coast ports in British Columbia for export on the same basis as now published to become effective on October 21, 1955, on Rape Seed in carloads for export via the same ports.

It is further ordered that the said carriers shall maintain such rates as maxima until this interim Order is amended, changed, superseded or rescinded by any further Order of the Board.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 87228

In the matter of the application of United States railroads, per Agent C. W. Boin, dated April 22, 1955; and application dated April 28, 1955, of the Canadian Freight Association and Canadian Passenger Association, regarding tariffs filed with the Board respecting traffic between points in Canada and points in the United States; between points in the United States through Canada; export and import traffic between Canadian Ports and stations in Canada; and other related traffic:

File No. 39422·2

THURSDAY, the 20th day of October, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

L. J. KNOWLES, *Commissioner.*

Upon consideration of the submissions filed, and of the Order of the Interstate Commerce Commission dated October 17, 1955, in proceedings entitled "EX PARTE NO. 175—INCREASED FREIGHT RATES, 1951" which authorizes cancellation of the expiration date of the increased rates and charges involved in such proceedings, and the substitution of increased rates per one hundred pounds or other unit for percentage increases in the amount of total freight charges as previously authorized;

It is ordered that the provisions of the Board's Tariff Circular No. 1, may be waived as to volume of supplemental matter, form of tariffs and supplements, to permit the publication and filing of a master tariff of increased rates and charges, and connecting link supplements to each tariff connecting such tariffs with the master tariff, in respect of all tariff schedules filed with the Board embodying the provisions of the Order of the said Interstate Commerce Commission.

It is further ordered that tariff schedules filed pursuant to the provisions of this Order, shall be made effective upon not less than thirty (30) days' notice and shall be subject to complaint and investigation as provided by the Railway Act.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, AUGUST, 1955

Railway Accidents	282	Killed	16	Injured	301
Level Crossing Accidents....	30	Killed	12	Injured	34
Total	312		28		335

	Killed	*Injured*
Passengers	—	67
Employees	2	201
Others	26	67
Total	28	335

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NEWFOUNDLAND
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Nfld. C-11-552.
		NOVA SCOTIA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 2-5649.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Nfld. 7708.
		NEW BRUNSWICK
2	—	Automobile drove onto crossing in front of approaching Budd Car and was struck. Licence: Que. 418-255.
		QUEBEC
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 370-425.
6	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-42-693.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-14500.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 82-787.
		ONTARIO
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-34-452.
1	1	Automobile ran into side of train. Licence: Ont. 657-047.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Ont. 815-628.
—	1	Tractor trailer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 9825-C.
—	1	Automobile ran into side of train. Licence: Ont. 317-351.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. F-38-390-A.

Killed	*Injured*	
—	3	Automobile ran into side of train standing on crossing. Licence: Ont. A-14-303.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 96-541.
—	1	Automobile ran into side of train. Licence: Ont. 558-789.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	2	Automobile ran into side of standing train. Licence: Ont. 875-271.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-70264.
—	1	Automobile ran into side of train. Licence: Ont. 499-103.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 94-987-A.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 67-633-A.

MANITOBA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck ran into side of train. Licence: Man. 902-40.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 2-T-729.

ALBERTA

—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. EZ-613.

BRITISH COLUMBIA

—	1	Auto truck ran into side of train. Licence: B.C. C-28880.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. 4212.

Of the 30 accidents at highway crossings, 24 occurred at unprotected crossings, and 6 at protected crossings. 19 occurred after sunrise and 11 after sunset.

OTTAWA, Ontario,
October 21, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87116 Oct. 7—Authorizing the C.N.R. to remove the station shelter at Soulanges, Quebec.

87117 Oct. 7—Requiring the C.N.R. to install certain protection at the crossing of Robinson Street, Granby, Quebec.

87118 Oct. 7—Authorizing the Municipal Corporation of the Parish of St. Remi du Lac aux Sables, Quebec, to widen the highway where it crosses the C.N.R.

87119 Oct. 7—In the matter of approval of plan submitted by the C.P.R. showing proposed location of storage tanks, etc. at Oshawa, Ontario.

87120 Oct. 7—In the matter of approval of plan submitted to the C.N.R. by Stewart Petroleums Limited, showing proposed location of storage tanks, etc. at Viking, Alberta.

87121 Oct. 7—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Roland, Manitoba.

87122 Oct. 7—In the matter of approval of plan submitted to the Nipissing Central Railway (Ontario Northland Railway) by McGarry Larder Fuels, showing proposed location of storage tanks, etc. at Larder Lake, Ontario.

87123 Oct. 7—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Hartney, Manitoba.

87124 Oct. 11—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87125 Oct. 11—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 13 near Wetaskiwin, Alberta.

87126 Oct. 11—Permitting the removal of slow order at Montreal and Southern Counties Railway crossing at D'Arcy Corner, Quebec.

87127 Oct. 11—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.N.R. tracks at Elk Point, Alberta.

87128 Oct. 11—Permitting the removal of slow order at C.N.R. crossing of L'Esperance Road, Tecumseh, Ontario.

87129 Oc . 11—Permitting the removal of slow order at C.P.R. crossing of 42nd Avenue South East, Calgary, Alberta.

87130 Oct. 11—Authorizing the C.N.R. to make signal changes at the connection between their Campbellford and Maynooth Subdivisions at Anson, Ontario.

87131 Oct. 12—Authorizing the C.N.R. to reconstruct the timber bridge over Beaver Dam Creek, Alberta.

87132 Oct. 12—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Hoadley Subdivision, Alberta.

87133 Oct. 12—Relieving the C.P.R. from erecting railway fencing on the south side of its right-of-way between certain mileages on its Willingdon Subdivision, Alberta.

87134 Oct. 12—Authorizing the C.N.R. to construct a spur to serve Alsask Processors Limited across 129th Avenue, Edmonton, Alberta.

87135 Oct. 12—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along certain public highways in the Township of Chatham, County of Kent, Ontario.

87136 Oct. 12—Authorizing the C.P.R. to install automatic block signals from MacTier to Pointe au Baril, Ontario.

87137 Oct. 12—Authorizing the New York Central Railroad Company to install signals at the loop track connecting the yard tracks with the track of the Essex Terminal Railway Company in the vicinity of Tecumseh Road, Windsor, Ontario.

87138 Oct. 12—Authorizing the C.N.R. to reconstruct the east approach to the steel bridge over the Souris River, Manitoba.

87139 Oct. 12—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Wetaskiwin Subdivision, Alberta.

87140 Oct. 12—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 56 at mileage 48·0 Dunnville Subdivision, Ontario.

87141 Oct. 12—In the matter of the application of the C.P.R. on behalf of Central Leduc Oils Limited, for permission to load crude oil into tank cars from tank trucks at Barons, Alberta.

87142 Oct. 13—Authorizing the Westspur Pipe Line Company to construct a pipe line for the transportation of crude oil, etc. from a point in the vicinity of Midale, Saskatchewan, to a point in the vicinity of Cromer, Manitoba.

87143 Oct. 13—Authorizing the Westcoast Transmission Company Limited to construct its pipe line across Maria Slough, in the Province of British Columbia.

87144 Oct. 13—Authorizing the Westcoast Transmission Company Limited to construct its pipe line across the Vedder Canal in the Northeast quarter of Section 6, Township 23, East of Coast Meridian, British Columbia.

87145 Oct. 13—Authorizing the Westcoast Transmission Company Limited to construct its pipe line across Maria Slough, in the Northeast and Southeast quarter of Section 29, Township 3, Range 28, West 6th Meridian, British Columbia.

87146 Oct. 13—Authorizing the Westcoast Transmission Company Limited to construct its pipe line across Sumas Drainage Channel in the remainder of Sections Nos. 25 and 26, Township 19, East of Coast Meridian, British Columbia.

87147 Oct. 13—Dismissing the application of the C.N.R. for authority to remove the agent at Dalmeny, Saskatchewan.

87148 Oct. 13—Authorizing the C.N.R. to construct an industrial lead to serve the St. Lawrence Cement Company Limited across the Town Line Road between Lot 1, Concession 3, Townships of Trafalgar and Toronto, Ontario.

87149 Oct. 13—Authorizing the C.N.R. to use the Jones subway near Newcastle, New Brunswick.

87150 Oct. 13—Permitting the removal of slow order at C.N.R. crossing of Finch Avenue, south of Concord, Ontario.

87151 Oct. 13—In the matter of the application of the Saskatchewan Department of Highways for authority to widen Highway No. 5 where it crosses the C.N.R. at mileage 51·68, St. Brieux Subdivision.

87152 Oct. 13—Permitting the removal of slow order at C.N.R. crossing and St. Jean de Dieu Street, Montreal, Quebec.

87153 Oct. 13—Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Trayner, Saskatchewan.

87154 Oct. 13—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 85948 to install certain protection at the crossing of the interchange track of their railway and the C.P.R. and Florence Street, London, Ontario.

87155 Oct. 13—In the matter of the application of the Quebec Department of Roads for installation of automatic protection at the crossing of Highway No. 23 and the Quebec Central Railway in Notre Dame de la Providence, Quebec.

87156 Oct. 13—Permitting the removal of slow order at C.N.R. crossing and 44th Avenue, west of station in the City of Lachine, Quebec.

87157 Oct. 13—In the matter of the approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of one additional storage tank at Wilkie, Saskatchewan.

87158 Oct. 13—In the matter of the approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at Gimli, Manitoba.

87159 Oct. 13—In the matter of the approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at Killarney, Manitoba.

87160 Oct. 13—In the matter of the approval of plan submitted to the C.P.R. by the Assiniboia Co-Operative Association, for approval of proposed location of pipe lines, etc. at Assiniboia, Saskatchewan.

87161 Oct. 13—Authorizing the Quebec Department of Roads to widen the highway where it crosses the C.N.R. in the Township of Nouvelle, County of Bonaventure, Quebec.

87162 Oct. 13—In the matter of the approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at Naicam, Saskatchewan.

87163 Oct. 13—Authorizing the C.N.R. to close the road allowance between Section 20, Township 16, Range 26, West 2nd Meridian and Section 29, Township 16, Range 26, West 2nd Meridian, Saskatchewan.

87164 Oct. 13—Authorizing the Northwestern Utilities, Limited to cross the Trans-Mountain Oil Pipe Line Company with a natural gas pipe line approximately 13 miles west of the City of Edmonton, Alberta.

87165 Oct. 14—In the matter of the application of Westcoast Transmission Company, Limited for approval of plan, profile and book of reference showing proposed location of its company pipe line within the Cariboo District in the Province of British Columbia.

87166 Oct. 14—In the matter of the application of Westcoast Transmission Company Limited for approval of plan, profile and book of reference showing proposed location of its company pipe line within the Cariboo District in the Province of British Columbia.

87167 Oct. 14—Permitting the removal of slow order at C.N.R. crossing of Highway No. 26 and Balsam Street, north of station at Collingwood, Ontario.

87168 Oct. 14—In the matter of the application of the C.P.R. for an Order extending the time within which they were required by Order No. 85955, to install certain protection at the crossings of Speedvale Avenue and Woolwich Street, Guelph, Ontario.

87169 Oct. 14—Authorizing the Township of North York, Ontario, to construct a water main under the pipe line of the Trans-Northern Pipe Line Company in Lot 21, Concession 2, West of Yonge Street, in the Township of North York, Ontario.

87170 Oct. 14—In the matter of the application of the C.P.R. to construct a branch line of railway commencing at mileage 16·51 of its Nephton Subdivision to the Canadian Flint and Spar Company near Bourrette Lake, Peterborough, Ontario.

87171 Oct. 14—In the matter of the approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Fairlight, Saskatchewan.

87172 Oct. 14—Approving Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone Guèvremont.

87173 Oct. 14—Approving operation of C.N.R. trains over the extension of the private siding to serve Northern Ontario Supply Limited, Port Arthur, Ontario.

87174 Oct. 14—In the matter of the approval of plan submitted to The Chesapeake and Ohio Railway Company by the Chrysler Corporation of Canada Limited, showing proposed relocation of storage tank at Windsor, Ontario.

87175 Oct. 14—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.P.R. under Section 8.

87176 Oct. 14—In the matter of the approval of plan submitted to the C.P.R. by North Star Oil Limited showing proposed location of storage tanks, etc. at Duchess, Alberta.

87177 Oct. 14—Approving operation of the Great Northern Railway Company trains over private siding serving the Canadian General Electric Company Limited, Vancouver, British Columbia.

87178 Oct. 14—Authorizing the C.P.R. to construct a siding to serve Pembina Mountain Clays Limited across Trinity Street, Winnipeg, Manitoba.

87179 Oct. 14—In the matter of the approval of plan submitted to the C.N.R. by Royalite Oil Company Limited, showing proposed location of storage tanks, etc. at Hinton, Alberta.

87180 Oct. 17—Authorizing the C.P.R. to open for the carriage of traffic its Manitouwadge Lake Subdivision between mileage 2·0 and mileage 39·82, Ontario.

87181 Oct. 17—In the matter of the approval of plan submitted to the C.N.R. by the Diamond Oil Company, showing proposed location of storage tanks, etc. at London, Ontario.

87182 Oct. 17—In the matter of the application of the C.N.R. for approval of the less than standard clearances at the siding serving Gaspe Copper Mines Limited at mileage 102·41 Chandler Subdivision, Quebec.

87183 Oct. 17—Dismissing the application of the C.N.R. for authority to remove the station agent and appoint a caretaker at Villemontel, Quebec.

87184 Oct. 17—Authorizing the C.N.R. to remove the station agent at St. Louis, Quebec.

87185 Oct. 17—In the matter of the application of the C.P.R. for an Order extending the time within which it was required by Order No. 85931, to install certain protection at the crossing of Adelaide Street, London, Ontario.

87186 Oct. 17—In the matter of the approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at St. Gregor, Saskatchewan.

87187 Oct. 17—In the matter of the approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Ashern, Manitoba.

87188 Oct. 17—In the matter of the approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Norquay, Saskatchewan.

87189 Oct. 17—In the matter of the application of the C.P.R. for an Order extending the time within which it was required by Order No. 85951, to install certain protection at the crossing of Route 18, in the Township of St. Vincent de Paul, Quebec.

87190 Oct. 17—In the matter of the application of the British Yukon Railway Company for approval of a resolution with reference to preparing and issuing tariffs.

87191 Oct. 17—Permitting the removal of slow order at C.P.R. crossing between Dewdney and Hatzic, British Columbia.

87192 Oct. 17—In the matter of the application of the British Yukon Navigation Company Limited for approval of a resolution with reference to preparing and issuing tariffs.

87193 Oct. 17—In the matter of the application of the Department of Highways of the Province of British Columbia, for an Order authorizing the construction of a public crossing across the C.N.R. at mileage 79·65 Cowichan Subdivision, British Columbia.

87194 Oct. 17—Authorizing the C.N.R. to construct an extension of their passing track across the north and south road allowance between Sections 21 and 22, Township 28, Range 18, West of the Second Meridian, Saskatchewan.

87195 Oct. 17—Authorizing the Township of Bonfield, Ontario, to construct a public crossing across the C.P.R. between Lots 5 and 6, Concession 8, in the Township of Bonfield, Ontario.

87196 Oct. 17—In the matter of the application of Trans-Prairie Pipelines Limited for authority to cross the Interprovincial Pipe Line Company with an oil pipe line 1½ miles east of Cromer, Manitoba.

87197 Oct. 17—In the matter of the approval of plan submitted by the C.N.R. showing proposed location of storage tanks, etc. at North Sydney, Nova Scotia.

87198 Oct. 17—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs, filed by the Canadian Freight Association, under Section 3.

87199 Oct. 17—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.P.R. under Section 8.

87200 Oct. 17—Approving under the Maritime Freight Rates Act tolls published in supplements tariffs filed by the C.N.R. under Section 3.

87201 Oct. 17—Approving plan showing location of Westcoast Transmission Company Limited company pipe line within the Cariboo District, British Columbia.

87202 Oct. 18—In the matter of approval of plan submitted to the Canadian National Railways by Imperial Oil Limited, showing proposed location of storage tank at Watson, Saskatchewan.

87203 Oct. 18—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at St. Claude, Manitoba.

87204 Oct. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The McCreary Telephone Co. Limited.

87205 Oct. 18—Approving under the provisions of the Maritime Freight Rates Act, tolls published in Tariff, filed by the Dominion Atlantic Railway under Section 8.

87206 Oct. 18—Permitting the removal of slow order at C.N.R. crossing of Cote de Liesse Road, Ville St. Laurent (Montreal), Quebec.

87207 Oct. 18—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Dewberry, Alberta.

87208 Oct. 18—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Osage, Saskatchewan.

87209 Oct. 19—In the matter of the application of Vancouver Merchants' Exchange Limited, in respect of export rates on Flaxseed and Rape Seed from Prairie points to Pacific Coast Ports.

87210 Oct. 19—Permitting the removal of slow order at C.N.R. crossing first crossing west of station at Vilna, Alberta.

87211 Oct. 19—In the matter of application of the C.P.R. on behalf of California Standard Co. for approval of crude oil loading facilities at Kirkella, Manitoba.

87212 Oct. 20—Approving plan showing proposed location of Westcoast Transmission Co., Ltd. pipe line within the Cariboo District, British Columbia.

87213 Oct. 20—Approving plan showing proposed location of Westcoast Transmission Co., Ltd., pipe line within the Lillooet District, British Columbia.

87214 Oct. 20—Approving plan showing proposed location of Westcoast Transmission Company Limited pipe line Lillooeet District, British Columbia.

87215 Oct. 20—Approving proposed location of storage tanks, etc. of P. M. Fleming Limited, near C.N.R. tracks at LaSarre, Quebec.

87216 Oct. 20—Approving plan of proposed location of Westcoast Transmission Company Limited company pipe line within the Cariboo District, British Columbia.

87217 Oct. 20—Approving abandonment of Central Vermont Rly. Co. St. Armand Subdivision between Iberville and St. Armand, Quebec.

87218 Oct. 20—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87219 Oct. 20—Permitting removal of slow order at C.P.R. crossing of Jane Street, Weston, Ontario.

87220 Oct. 20—Authorizing the City of Calgary, Alberta, to widen Edmonton Trail where it crosses the C.P.R.

87221 Oct. 20—In the matter of application of the C.N.R. for approval of revised plan showing changes in signal protection at Dorval, Quebec.

87222 Oct. 20—Authorizing the C.N.R. to use the trestle at mileage 127·6, Oyen Subdivision, Alberta.

87223 Oct. 20—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Nokomis, Saskatchewan.

87224 Oct. 20—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of storage tank, etc. at Estevan, Saskatchewan.

87225 Oct. 20—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of storage tank, etc. at Moosomin, Saskatchewan.

87226 Oct. 20—In the matter of application of C.N.R. on behalf of Orecan Oil Limited, for approval of crude oil loading facilities at Kingsford, Saskatchewan.

87227 Oct. 20—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of storage tank, etc. at Claydon, Saskatchewan.

87228 Oct. 20—In the matter of applications of the United States Railroads and Canadian Freight Association and Canadian Passenger Association, regarding tariffs filed with the Board respecting traffic between points in Canada and points in the United States, etc.

87229 Oct. 20—In the matter of application of The Bell Telephone Company for leave to construct its lines along certain public highways in the Corporation of the Township of Harwich, Ontario.

87230 Oct. 20—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Havelock Subdivision, Ontario.

87231 Oct. 20—In the matter of application of The Bell Telephone Co., for leave to construct its lines along certain public highways, in the County of Kent, Ontario.

87232 Oct. 20—Authorizing the Quebec Department of Roads to relocate Bridge Road where it crosses the C.N.R. near the station at Ste. Florence, Quebec.

87233 Oct. 20—In the matter of approval of plan submitted to C.N.R. by Husky Oil and Refining Limited, showing proposed location of storage tanks, etc., near Moose Jaw, Saskatchewan.

87234 Oct. 20—Authorizing the City of Quebec to widen Sacrement Street, where it crosses the C.N.R. and C.P.R.

87235 Oct. 20—In the matter of approval of plan submitted by the C.P.R. on behalf of the Ontario and Quebec Railway Company, showing proposed location of storage tanks, etc. at London, Ontario.

87236 Oct. 21—In the matter of application of C.P.R. for an extension of time within which protection is to be installed at the crossing of its railway and 55th Avenue, Lachine, Quebec.

87237 Oct. 21—Approval of Supplement of Service Station contract between The Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Ryde.

87238 Oct. 21—Approving Supplement to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Charlevoix et Saguenay.

87239 Oct. 21—Approving Traffic Agreement between The Bell Telephone Company and the Madawaska Valley Telephone Company Ltd.

87240 Oct. 21—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Sherwood Municipal Telephone System.

87241 Oct. 21—Authorizing the C.P.R. to construct an extension to its elevator track across Lacrosse Street, Virden, Manitoba.

87242 Oct. 21—Authorizing the County of Elgin to relocate the automatic protection at the crossing of Warren Street and The London and Port Stanley Railway in the Village of Port Stanley, Ontario.

87243 Oct. 21—Authorizing the C.P.R. to install certain protection at the crossing of Gravenhurst Pointe-au-Baril Road, in the Township of Macdougall, Ontario.

87244 Oct. 21—In the matter of application of the C.P.R. for an extension of time to install certain protection at the crossing of Jacques Cartier Street, mileage 6·48 Adirondack Subdivision, near Farnham, Quebec.

87245 Oct. 24—Authorizing the Ontario Department of Highways to construct Highway No. 401 across the C.N.R. by means of an overhead bridge in the Township of Charlottenburg, Ontario.

87246 Oct. 21—In the matter of approval of plan submitted to the C.N.R. by the Canadian Petrofina Limited, showing proposed location of storage tanks, etc. at Sillery, Quebec.

87247 Oct. 21—Permitting removal of slow order at C.P.R. crossing at mileage 87·88, Crowsnest Subdivision.

87248 Oct. 21—Approving plan showing proposed location of Westcoast Transmission Company Limited company pipe line within Yale District, British Columbia.

87249 Oct. 21—Authorizing the C.P.R. to relocate the two flashing light signals and one bell at the crossing of Hall Street, Renfrew, Ontario.

87250 Oct. 21—Requiring the C.N.R. to install light signals and one bell at the crossing of Menard Street, Roberval, Quebec.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLV OTTAWA, DECEMBER 1, 1955 No. 17

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, $3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Authorized as Second Class Mail, Post Office Department, Ottawa.

In the matter of the application dated February 22, 1955, of Trans-Canada Pipe Lines Limited, under Section 20 and other relevant sections of the Pipe Lines Act, for an Order granting leave to the applicant to deviate, change and extend the general location of its proposed pipe line described in Order No. 84220, dated July 24, 1954, and to make certain changes in the size of the pipe.

File No. 45371·20·2

HEARD at Ottawa, Ontario, on March 10, 1955.

Before:

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Appearances:

J. ROSS TOLMIE, for Trans-Canada Pipe Lines Limited.

W. E. RANEY, for Hydro-Electric Power Commission of Ontario.

J. W. SPOONER, for Municipalities on No. 11 Highway route proposed.

W. G. PERRY, for Ontario Northland Transportation Commission.

STEWART SMITH and D. NERENBERG, for Ontario Committee Labour-Progressive Party.

IAN MACLAREN, for Canadian Coal Dock Operators' Association.

D. D. DIPLOCK, for the City of Ottawa.

J. A. HABEL, for the Town of Cochrane, Ontario.

62869—1

JUDGMENT

KEARNEY, J., Chief Commissioner:

An Order, No. 86796, dated August 18, 1955, was issued on this application and the Order stated that reasons would be given in writing at a later date.

The application is another step in the Applicant's efforts to construct a natural gas pipe line from the Alberta fields to termini in the provinces of Ontario and Quebec, and to Emerson, Manitoba. At an earlier stage we granted by our Order No. 84220, dated July 24, 1954, a conditional leave to Trans-Canada to construct the entire proposed line, the general location of the line being as shown on the map referred to in that Order.

That Order was issued following a hearing and a judgment dated July 24, 1954, wherein under the heading "Description of route and facilities" we dealt with a submission that the main line should follow a Northern route in Ontario from the vicinity of Nipigon through or in the vicinity of Orient Bay, Geraldton, Long Lac, Hearst, Kapuskasing, Porquis Junction, Earlton to or in the vicinity of North Bay, instead of the southern route, originally proposed, from the vicinity of Nipigon through or in the vicinity of Schreiber, Marathon, Hawk Junction, Chapleau, Sudbury to or in the vicinity of North Bay, and in that respect we stated:

> "Subsequent to the hearing, further submissions were made by Mr. Young and the company and, at the moment, the weight of evidence before us, in my opinion, favours the route proposed by the Company. However, the Company, which is naturally anxious to follow the most practical route, has been looking further into the merits of the northern route and if, at any time before construction begins, the Company becomes convinced that the northern route should be followed, it would be at liberty to do so, providing the cost of such deviation, taking into account the relative sales potential, would not be greater than the route presently applied for. Moreover, the southern and northern routes are not mutually exclusive and the use of the southern route does not deprive the northern markets of natural gas service since it is possible, as soon as markets justify, to build a spur line running north from North Bay."

Trans-Canada did carry out further intensive studies and surveys and re-examined the situation with respect to the merits of the two routes, and evidence was given at the March 10, 1955 hearing, by Mr. Charles S. Coates, Executive Vice-President and General Manager of the Company, that it had engineering crews on the ground of both routes and also examined them by helicopter and looked over both routes very closely. He also stated that the southern route traverses an area that is all rock and muskeg and timber; that the only access is by rail, there being no highways available to the pipe line, whereas the northern route follows a main highway; that the capital cost of the line along the southern route is estimated to be $74,238,000 plus another $15,000,000 for access routes, compared with an estimated capital cost of the line along the northern route of $88,734,000; that the estimated annual cost of pipe line maintenance and operation of the southern route is $1,000 per mile for 505 miles, compared with similar costs of the northern route of $700 per mile for 610 miles; in other words, for the southern route $505,000 per year or $10,100,000 for twenty years; for the northern route, $427,000 per year or $8,540,000 for twenty years.

There was also evidence that the northern route has approximately $2,450,000 per year more of potential gas sales than the southern route and in the opinion of Mr. Coates and the Company, having regard to overall construction, operation and maintenance costs and the more favourable potential markets along the northern route, the latter is the preferable route. We think so too.

The proposed northern route would serve Sudbury by a lateral line from the main line at a proposed location of compressor station No. 11 near the town of Marten River, thence following Highway 64 to Field, a distance of some 23 miles, thence from Field following a gravelled road to the intersection with Highway 17 near Verner, thence along Highway 17 to Copper Cliff, a total pipe line distance of approximately 67 miles.

Mr. Cyril Young submitted that the lateral to Sudbury should commence at the main line near North Bay and extend westerly to Sturgeon Falls, Coniston, Sudbury and Copper Cliff.

Mr. Young's submission was the only opposition to the change from the southern to the northern route.

We asked Trans-Canada to reconsider the question of the location of the pumping station near Marten River and the route of the lateral to Sudbury. The Company did so and subsequently forwarded a report of its engineers in that connection. The report may be summarized as follows:

(*a*) As to the route suggested by Mr. Young:

Between North Bay and Sturgeon Falls, approximately 26 miles, the line cannot follow Highway 17 and would have to be located two or three miles north of the highway to partially avoid a bad stretch of swamp and muskeg (approximately 9 miles) just east of Sturgeon Falls and an expensive underwater crossing near Sturgeon Falls. The length of lateral line to Copper Cliff is approximately 81 miles plus a 2-mile tap line to Sturgeon Falls city gate.

(*b*) As to the route proposed by the Company:

The length of the lateral from the main line to Copper Cliff is approximately 67 miles. Highway 64 is a black top provincial highway and is kept open during winter. The route from Field to Highway 17 near Verner is gravelled. The pipe line can be satisfactorily maintained and operated along this route from the highways. From Verner the line follows the same route as the suggested alternative along Highway 17 to Copper Cliff.

(*c*) Costs.

The route suggested by the Company would cost approximately $1,500,000 less to construct than the alternative and also the portion of the route along the gravelled country road will be less difficult of access than the alternative north of Lake Nipissing where the line would have to leave the highway to avoid the muskeg swamp. There would also be a saving in operating costs made possible by not having to compress the Sudbury area gas through station No. 11 in the early years.

The volume to be carried in the early years is estimated at 15,000,000 cubic feet per day but a potential market may exist for perhaps 50,000,000 cubic feet per day. The line size should be such as to allow the delivery of the maximum potential flow without looping the line and this would require a 12-inch line from North Bay to Copper Cliff if the alternative route were followed whereas if the route proposed by the Company is followed a 10-inch line would come off the suction side of station No. 11 in the early years, and off the discharge side of the station when and if the potential volume is

obtained. This would reduce the operating horse power required at station No. 11 in the early years. However, as the alternative route does not pass through Sturgeon Falls, a lateral line would be required from Field to Sturgeon Falls, approximately 14 miles, if the market develops.

(*d*) As to the location of compressor station No. 11 at Marten River:

Compressor station location on a high pressure gas transmission line is controlled by hydraulics or flow of gas through the line and the location of station No. 11 at Marten River was determined by the application of the hydraulic formula for the quantity of gas to be transported beginning with station No. 1 on the Alberta-Saskatchewan border. To relocate station No. 11 it would be necessary to redesign and relocate all stations between No. 1 and No. 11. Many of these station sites have been acquired and the basic design has been completed. If station No. 11 is moved to North Bay, the distance between No. 10 and No. 11 will be increased, causing a further decrease in the line pressure as it enters the station at North Bay and this reduction will necessitate the installation of additional horse power to maintain main line pressure and would increase operating costs without advantage over the applied for design.

The Company therefore felt that the Sudbury lateral as proposed by the Company is preferable to that proposed by Mr. Young.

We think that the Company has justified its choice of locations of pumping station No. 11 at Marten River and the lateral to Sudbury and Copper Cliff and it has our approval.

Trans-Canada also sought leave to change or deviate the route of its line in certain other locations and to make certain extensions, also to change the diameter of certain portions, all as set forth in the application.

The extensions and changes in route would effect an increase of approximately 139 miles in the total length of the entire line. The diameter of certain sections would be changed as follows:

(*a*) Alberta border to Winnipeg from 36 inches to 34 inches.

(*b*) Pine Grove, Ontario, to Sheridan, Ontario, from 18 inches to 24 inches.

(*c*) Morrisburg, Ontario, to Ottawa, Ontario, from 14 inches to 16 inches.

(*d*) Marten River, Ontario, to Sudbury, Ontario, from 30 inches to 10 inches.

(*e*) Verner, Ontario, to Sturgeon Falls, Ontario, from 30 inches to 4 inches.

As to the decrease from 36 inches to 34 inches in the diameter of the portion from the Alberta border to Winnipeg, Mr. Coates gave evidence as to the small amount of 36-inch high pressure line in the United States, about 75 or 80 miles, and also stated that 36-inch pipe is not readily available, there being no mills that make it at the present time in their operation. He further stated that by changing the design and wall thickness of the pipe it will be possible to pump just as much gas through the 34-inch as through the 36-inch line.

On the whole, we were of the opinion that the application should be granted and our Order No. 86796 was therefore issued.

JOHN D. KEARNEY,
Chief Commissioner.

I concur:

FRANK M. MACPHERSON.

September 30, 1955.

ORDER No. 86796

In the matter of the application dated February 22, 1955, of Trans-Canada Pipe Lines Limited, under Section 20 and other relevant sections of the Pipe Lines Act, for an Order granting leave to the applicant to deviate, change and extend the general location of its proposed pipe line described in Order No. 84220, dated July 24, 1954:

File No. 45371·20·2

THURSDAY, the 18th day of August, A.D. 1955.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at a sittings of the Board held in Ottawa on the 10th day of March, 1955, in the presence of Counsel for and representatives of Trans-Canada Pipe Lines Limited, Hydro Electric Power Commission of Ontario, interested Municipalities in Northern Ontario, Ontario Northland Transportation Commission, City of Ottawa, Labour Progressive Party, Canadian Coal Dock Operators' Association, and others, and for reasons which will be given in writing at a later date—

It is ordered that, subject to the provisions of Order No. 86088, leave be, and it is hereby, granted to Trans-Canada Pipe Lines Limited, to:

1. Change or deviate the route of its proposed pipe line as set out in Order No. 84220, dated the 24th July, 1954, between Nipigon and North Bay, Ontario, to the following extent:

 Generally following the Canadian National Railways' line of railway north from Nipigon past Cameron Falls, Orient Bay, Beardmore, Jellicoe and Hearst, thence following generally the railway and the highway past Kapuskasing, Smooth Rock Falls, Cochrane, Matheson Station, Englehart, New Liskeard, Cobalt, Latchford and Timagami to intersect the original route at North Bay.

2. Change or deviate the route in the manner set out in the application, as follows:

 (*a*) The new point of beginning is about five and one quarter miles north along the Alberta-Saskatchewan border from the original point of beginning and the route now planned gradually approaches the original route, intersecting it at a point about one and one half miles north of the Town of Pennant, Saskatchewan, and thence generally coincides with the original route to

 (*b*) A point about a mile north of Vibank, Saskatchewan, whence the route now planned deviates to the north of the original route and passes just north of Deveron and just south of Wapella, Saskatchewan, thence north of Miniota, Varcoe and Austin and intersects the original line about six and three quarters miles due south and two miles east of Oakville, Manitoba, and then deviates to the south of the original route passing

 (*c*) South of Oak Bluff and St. Norbert and swings north of St. Anne, McMunn and Glenn to intersect the original route just west of the border between Manitoba and Ontario and thence generally coincides with the original route

(*d*) Coincides generally with the original route past Huntsville, Falkenberg and Ravenhurst to Washago whence the planned route deviates to the southwest past Allendale and Barrie, and south to

(*e*) Pine Grove, where the route continues eastward to intersect with the original route at Brooklin, whence it generally coincides with the original route eastward to Montreal.

(*f*) The route of the Emerson Lateral deviates from the original in that it begins near Fort Whyte some seventeen miles west of the original point of beginning and follows generally the railway and highway past Morris to a point on the Canada-U.S. Border just west of the town of Emerson, Manitoba.

(*g*) The original lateral from Brooklin west and south to Oakville is not now necessary since the planned main line route runs between Brooklin and Pine Grove and a planned lateral runs south from Pine Grove to Sheridan, near Oakville.

3. Construct a branch line starting near the junction of Ontario provincial highways numbers 11 and 64 near Marten River, and generally following highway No. 64 in a southwesterly direction to its intersection with highway No. 17 and thence westward following generally highway No. 17 to Sudbury and Copper Cliff, with a proposed branch line from the junction of highways Nos. 64 and 17 near Verner eastward to the city of Sturgeon Falls.

4. Effect an increase of approximately one hundred and thirty-nine miles in the total length of the entire pipe line.

5. Change the diameters of certain sections of the pipe line, as follows:

(*a*) Alberta border to Winnipeg, from 36″ to 34″.

(*b*) Pine Grove, Ontario to Sheridan, from 18″ to 24″.

(*c*) Morrisburg to Ottawa-Hull, from 14″ to 16″.

(*d*) Marten River to Sudbury, from 30″ to 10″.

(*e*) Verner to Sturgeon Falls, from 30″ to 4″.

the general location of the pipe line being as shown on the map revised to February 22, 1955, on file with the Board.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 87271

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Canadian Freight Classification No. 20:

File No. 47833·5

THURSDAY, the 27th day of October, A.D. 1955.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Canadian Freight Classification No. 20 on file with the Board under file No. 47833·5, be, and it is hereby, approved.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87251 Oct. 24—Authorizing the C.N.R. to construct an extension to the passing track at Tate, Saskatchewan.

87252 Oct. 24—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 85968, dated April 14, 1955, to install automatic protection at the crossing of Highway No. 9 at mileage 40·37 Drumheller Subdivision, Alberta.

87253 Oct. 24—Authorizing the County of Middlesex to improve the sight lines at the crossing of County Road No. 3, Township of North Dorchester, Ontario.

87254 Oct. 24—Authorizing the C.N.R. to reconstruct the bridge over Stony Creek, Manitoba.

87255 Oct. 24—Authorizing the British Columbia Department of Highways to construct the highway across the C.P.R. at mileage 41·5 Princeton Subdivision, British Columbia.

87256 Oct. 24—Relieving the C.N.R. from erecting fencing between certain mileages on its Harte Subdivision, Manitoba.

87257 Oct. 24—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

87258 Oct. 24—In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service.

87259 Oct. 24—Authorizing the C.N.R. to relocate the junction switch which is the junction of the railway of the Quebec Central Railway Company at Walsh Junction, Armagh Subdivision, Quebec.

87260 Oct. 24—Approving operation of the C.P.R. trains over private siding in the Township of Etobicoke, Ontario, to serve Ayer Storage Company.

87261 Oct. 24—Permitting the removal of slow order at the Quebec Central Railway crossing south of the station at Leeds, Quebec.

87262 Oct. 25—Permitting the removal of slow order at C.P.R. crossing near Vernon, British Columbia.

87263 Oct. 25—In the matter of the application of the C.N.R. for approval of revised plan showing automatic protection as installed at the crossing of their railway and Vernier Road, east of Coteau Station, Quebec.

87264 Oct. 26—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 50 at mileage 20·48, MacTier Subdivision, Ontario.

87265 Oct. 26—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 48 mileage 94·5 Oshawa Subdivision, Ontario.

87266 Oct. 26—Requiring the C.N.R. to install certain protection to warn approaching traffic on St. Jean Street at the crossing of Roberval Street, Roberval, Quebec.

87267 Oct. 26—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.

87268 Oct. 26—Authorizing the Dominion Atlantic Railway Company to remove the station agent and close the station at Falmouth, Nova Scotia.

87269 Oct. 26—Approving less than standard clearances at C.N.R. siding serving Sylvania Electric (Canada) Limited at Drummondville, Quebec.

87270 Oct. 27—In the matter of approval of plan submitted to the Northern Alberta Railways Company by X-L Refineries Limited showing proposed location of storage tanks, etc. at Dawson Creek, British Columbia.

87271 Oct. 27—Approving Supplement No. 3 to Canadian Freight Classification No. 20.

87272 Oct. 27—In the matter of approval of plan submitted to the C.N.R. by the Imperial Oil Limited, showing proposed location of storage tanks, etc. at Spy Hill, Saskatchewan.

87273 Oct. 27—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Rumsey, Alberta.

87274 Oct. 28—Authorizing the C.N.R. to relocate the flashing light signals at crossing of Highway No. 3 at Port Colborne, Ontario.

87275 Oct. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Union Telephone Company Limited.

87276 Oct. 28—Approving Traffic Agreement between The Bell Telephone Company of Canada and the New Union Telephone Company Limited.

87277 Oct. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The New Union Telephone Company Limited.

87278 Oct. 28—Approving Appendix "A" to Traffic Agreement between The Bell Telephone Company of Canada and the Davis Telephone System.

87279 Oct. 28—In the matter of approval of plan submitted to the C.N.R. by the Imperial Oil Limited showing proposed location of storage tanks, etc. at Lampman, Saskatchewan.

87280 Oct. 28—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 402 at mileage 2·5 Point Edward Subdivision, Ontario.

87281 Oct. 28—Requiring the C.N.R. to install certain protection at the crossing of Bayers Road, Nova Scotia, at mileage 0·75 Chester Subdivision.

87282 Oct. 28—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited showing proposed location of storage tanks, etc. at Lestock, Saskatchewan.

87283 Oct. 28—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Chauvin, Alberta.

87284 Oct. 28—Approving plan showing location of the Westspur Pipe Line Company gathering lines located in the Rural Municipality of Cymri, Saskatchewan.

87285 Oct. 28—In the matter of the application of the C.P.R. for an Order amending Order No. 82000 directing the Quebec Central Railway Company to construct a foot-bridge over its tracks at Vallee Junction, Quebec.

87286 Oct. 28—Authorizing the C.N.R. to make signal changes between Hamilton and Bayview, Ontario.

87287 Oct. 31—Permitting the removal of slow order at C.N.R. crossing of Route No. 20, west of the station at Ste. Rosalie, Quebec.

87288 Oct. 31—Authorizing the C.N.R. to operate under the overhead bridge at mileage 46·04 Dundas Subdivision, Ontario.

87289 Oct. 31—Requiring the C.N.R. to install certain protection at the crossing of County Road No. 7, County of Grey, Ontario.

87290 Oct. 31—Authorizing the Canadian Chemical Company Limited to make certain changes at the crossing of the C.N.R. and the private road serving the Canadian Chemical Company Limited at Clover Bar, Alberta.

87291 Oct. 31—Authorizing the C.P.R. and the C.N.R. to operate their trains through the interlocking at the crossing of their railways near Wadena, Saskatchewan.

87292 Nov. 1—In the matter of the application of the C.N.R. for approval of plan showing protection as installed at the crossing of 97th Street near 126th Avenue in the City of Edmonton, Alberta.

87293 Nov. 1—Permitting the removal of slow order at C.P.R. crossing and Provincial Highway No. 13 north of the station in the City of Wetaskiwin, Alberta.

87294 Nov. 1—In the matter of the application of the C.P.R. for an Order extending the time within which they were required by Order No. 86353 to install certain protection at the crossing of its railway and Highway No. 11, Quebec.

87295 Nov. 1—Approving proposed location of storage tanks, etc. of William Beatty and Company Limited near C.N.R. tracks at Parry Sound, Ontario.

87296 Nov. 1—Approving proposed location of storage tanks, etc. near C.N.R. tracks at Lashburn, Saskatchewan.

87297 Nov. 1—Authorizing the C.N.R. to construct a spur to serve Canada Safeway Limited across 12th Street West and lane in Block 2 in the City of Prince Albert, Saskatchewan.

87298 Nov. 1—Approving plan showing protection as installed at the crossing of the C.N.R. and certain streets in the City of Hamilton, Ontario.

87299 Nov. 1—Authorizing the Ontario Department of Highways to construct the subway on Highway No. 2 in the Township of Ekfrid, County of Middlesex, Ontario.

87300 Nov. 1—Authorizing the Calgary Power Company to construct a water supply line across the Interprovincial Pipe Line Company in the Northwest Quarter of Section 28, Twp. 52, Range 23, West Fourth Meridian, Alberta.

87301 Nov. 1—In the matter of the application of the C.N.R. for approval of plan showing protection as installed at the crossing of their two industrial sidings and Dundas Street East and Carlaw Avenue, in the City of Toronto, Ontario.

87302 Nov. 1—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Shuswap Subdivision, British Columbia.

87303 Nov. 1—In the matter of the application of the C.P.R. for an Order extending the time within which they were required by Order No. 86122 to install automatic protection at the crossing of Highway at mileage 121·8 Carberry Subdivision, Manitoba.

87304 Nov. 1—In the matter of approval of plan submitted to Nipissing Central Railway by Champlain Oil Products Limited, showing proposed location of storage tanks, etc. at Kirkland Lake, Ontario.

87305 Nov. 2—Permitting the removal of slow order at C.P.R. crossing at Burwash, Ontario.

87306 Nov. 2—Requiring the C.N.R. to install certain protection at the crossing of their railway and Highway No. 22 in the Parish of Denmark, Victoria County, New Brunswick.

87307 Nov. 2—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 22 at mileage 59·59 Grand Falls Subdivision, New Brunswick.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, DECEMBER 15, 1955 No. 18

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In the matter of the application of Westspur Pipe Line Company for an Order granting leave to it to construct a pipe line for the transportation of crude oil and other liquid and gaseous hydrocarbons, from a point in the vicinity of Midale, in the Province of Saskatchewan, to a point in the vicinity of Cromer, in the Province of Manitoba, together with such pipe lines and other facilities as may be required for the purpose of gathering crude oil and other liquid and gaseous hydrocarbons along and in the vicinity of the pipe line route.

File No. 45371·27

and

In the matter of the application of S. & M. Pipeline Limited for an Order granting leave to it to construct a pipe line for the transportation of crude oil from the vicinity of Midale in the Province of Saskatchewan by way of Frobisher, also in the Province of Saskatchewan, to Cromer, in the Province of Manitoba, the said line being approximately 98·5 miles in length, together with such pipe line and other facilities as may be required for the purpose of gathering crude oil along and in the vicinity of the pipe line route.

File No. 45371·26

and

In the matter of the application of Trans-Prairie Pipelines of Canada, Limited, for an Order granting leave to it to construct a pipe line for the transportation of crude oil and other liquid and gaseous hydrocarbons from a point in the vicinity of Midale in the Province of Saskatchewan by way of Frobisher in the Province of Saskatchewan, to Cromer in the Province of Manitoba, together with such pipe lines and other facilities as may be required for the purpose of gathering crude oil and other liquid and gaseous hydrocarbons along and in the vicinity of the pipe line route.

File No. 45371·28

62870

HEARD at Ottawa, Ontario, on September 19th, 1955, to September 28th, 1955, inclusive.

Before:

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Appearances:

J. F. BARRETT and G. W. ROBINETTE, for Westspur Pipe Line Company.
GEO. J. MCILRAITH, Q.C., and M. A. MACPHERSON, Q.C., for S. & M. Pipeline Limited.
R. G. B. DICKSON, Q.C., J. ROSS TOLMIE, Q.C., and D. G. BLAIR, for Trans-Prairie Pipelines of Canada Limited.
JAS. H. STITT, Q.C., for the Province of Manitoba.
R. B. BURGESS, for the Interprovincial Pipe Line Company.
J. T. CAWLEY, for the Department of Mineral Resources, Province of Saskatchewan.

JUDGMENT

KEARNEY, J., Chief Commissioner:

Before us are three separate applications for authority to construct a crude oil transmission line beginning at Midale, Saskatchewan, and terminating at Cromer, Manitoba, a few miles east of the Saskatchewan-Manitoba border, including gathering systems in three main known oil producing areas in Saskatchewan.

In order of date, the applications referred to were made by Westspur Pipe Line Company, S. & M. Pipeline Limited and Trans-Prairie Pipelines of Canada, Limited, hereinafter for brevity's sake, referred to as "Westspur", "S. & M." and "Trans-Prairie" respectively.

The cases of all the applicants were heard at the same sittings held in Ottawa and extending from September 19, 1955, to September 28, 1955. By consent, the proof in each application was made common to all.

The contemplated design submitted by the various applicants for the main trunk line and attendant gathering systems varied in certain particulars with the result that the main line proposed by Westspur is 109 miles, that of S. & M. 100·1 miles and that of Trans-Prairie 111 miles. However, all designs were contemplated to serve the same known producing fields.

All three applicants were incorporated by special Federal Acts and all have the same purposes and the same type of powers. The principal difference between the three applicants was in the sponsors of the three companies and in the form in which the sponsorship was expressed in the company to be concerned with the actual construction and operation of the pipe line.

Westspur is backed by a group of fourteen companies including such experienced major oil companies as Shell Oil Company, British American Oil Company Limited, Canadian Gulf Oil Company, spearheaded in respect of management by Imperial Oil Limited. The foregoing group constitutes the majority of producers in the territory concerned and are possessed of a preponderance of the known production and potentially producing acreage in the area. There was evidence that this group controls 92·5 out of 137 producing wells in the area, or approximately 68 per cent, which figure includes 50 per

cent of the wells jointly owned and operated by Canadian Gulf and Canadian Devonian Petroleums Limited as the evidence presented was to the effect that Canadian Gulf Oil Company was one of the subscribers to the equity stock of Westspur whereas Canadian Devonian Petroleums Limited was not.

Westspur proposed the initial issue of $1,600,000 equity capital to be subscribed and paid for at a uniform price in agreed proportions between the aforesaid fourteen producers, without recourse to public financing. The highest single interest of any one company was to be 10 per cent. There was further evidence that, although there was no binding commitment, it was the express policy of the group concerned that arrangements would be made to issue or transfer shares to other producers, who were now, or would later become active in the area and wished to participate.

S. & M. is sponsored by Canadian Devonian Petroleums Limited, which company it is proposed would acquire a substantial interest, at some discount, in the equity capital of the S. & M. Company, together with a further offering of shares in the S. & M. to shareholders of Canadian Devonian Petroleums Limited, other producers in the area and the general public. Canadian Devonian Petroleums Limited is also a company engaged in the production of crude oil in Western Canada and in particular in the area to be served by the proposed pipe line. It was stated by Mr. Cruickshank, of Canadian Devonian Petroleums Limited and S. & M., in evidence, that Canadian Devonian has an interest in twenty-seven producing wells in Canada, which is the equivalent of 100 per cent of fourteen wells. Fifteen of the twenty-seven wells are owned by Canadian Devonian Petroleums Limited in partnership with Canadian Gulf Oil Company, the latter being one of the participants in Westspur. Counsel for S. & M. does not contend that Canadian Devonian itself has had previous experience in the management of a pipe line, but S. & M. proposes that Petrol Structors Limited, a firm with previous engineering and operating experience in oil pipe lines, should guide the operations of S. & M. until the latter has had time to develop a staff for this purpose.

The sponsor of Trans-Prairie is a Manitoba company, Trans-Prairie Pipelines Limited, already operating a crude oil transmission and gathering line system in Manitoba. It appears by the evidence that although this company had been in operation only a short time, its operation had been successful and had resulted in progressively lowering the cost of transportation of crude oil in the area served by it.

Trans-Prairie Pipelines Limited is not sponsored by producers in the area in which it presently operates and the Applicant, Trans-Prairie, was not sponsored by the producing companies located in the area to be served by the proposed pipe line, although it was contemplated that an offering of approximately 28 per cent of the common stock of the company would be made to the oil producing companies so located.

Before considering the respective merits of the three applications, the Board must satisfy itself that there are sufficient proven, semi-proven and potential reserves of crude oil in the area to justify the building of a transmission and gathering line system and that markets are such as to warrant its construction.

The three Applicants placed before us sufficient evidence as to markets and reserves to justify us in authorizing the construction of such a system. All three Applicants agree, however, that the economics of the situation justify only the construction of one line and being satisfied with the proof submitted on this point, the Board considers that it should grant leave to construct one transmission line only.

None of the applications with which we are concerned is of a frivolous nature and, on the contrary, all of them constitute serious submissions, well presented, and supported by detailed evidence of reputable experts.

The evidence presented to us on the subject of financing indicated that chartered banks of the country were prepared to purchase in whole or in part the proposed issue of bonds or debentures of each of the three applicant companies, should they be successful in obtaining a permit. This fact speaks well for the economic soundness of the pipe line and the confidence reposed in all applicants which have applied for leave to construct it.

As intimated in the course of the hearing, the Board's ungrateful and peculiarly difficult task is to decide which is the best of three worthy applications.

It is also the first time that the Board has been called upon to deal with fully prosecuted competing applications for leave to construct a pipe line under the Pipe Lines Act, as amended by Chapter 7, Section 2 of the Statutes of Canada, 2-3 Elizabeth II, 1953-54.

Section 12 of the Act sets out the procedure to be followed in cases such as those now before us. It reads as follows:

> "12. (1) Upon an application, for an order granting leave to construct a line, the company shall file with the Board a map showing the general location of the proposed line, the termini, and all cities, towns, villages, railways and navigable waters through, under or across which the line is to pass.
>
> (2) The Company shall file a copy of the application and of the map with the Attorney-General of each province to which the application relates in whole or in part, and the Board shall require notice of the application to be given by publication in newspapers or otherwise.
>
> (3) Upon the application, the Board shall have regard to all considerations that appear to it to be relevant and in particular to the objection of any party interested, to a public interest that in the Board's opinion may be affected by the granting or the refusing of the application, and to the financial responsibility of the applicant.
>
> (4) The decision of the Board as to whether a person is or is not a party interested within the meaning of this section is binding and conclusive.
>
> (5) Where the Board grants leave to construct a line, it may impose such terms and conditions as it considers proper and may limit the time within which the Company shall construct and complete the line."

Each of the Applicants has satisfied us that subsections (1) and (2) of Section 12 have been complied with. Subsection (3) sets out specifically only three of the considerations which the Board shall have regard to in granting or refusing an application, but the discretionary powers of the Board on matters of fact under that subsection are very broad and the wider they are the more do I think it behooves us to exercise them to the best of our ability in an intelligent, equitable and reasonable manner, particularly since under Section 4 of the Pipe Lines Act, as I read it, an appeal lies from our decision only on questions of law and jurisdiction.

As guiding considerations, subsection (3) particularly refers to public interest and financial responsibility of the applicant. There is no question as to the public interest requiring and warranting the construction and operation of some line having the main purposes of any of the applicants. Some such line, it is clearly established with the assent of all the parties hereto, is reasonably required for the efficient and economical transmission of crude oil to the

terminal areas, and is essential to the proper development of the oil deposits in the territory of origin. Among the additional factors or criteria which the Board, in conjunction with its economic, financial and engineering specialists has deemed relevant and has considered are: (a) design and other engineering features of the proposed line; (b) costs of construction and operation of the line; (c) comparative cost of financing of the debt and equity capital, as suggested by the Applicants; (d) skill, knowledge, experience and record of the parties who will be charged with the administration and direction of the respective undertakings; (e) the type of interest which the sponsors of the respective companies have in the area in question and their ability and incentive to further develop in an orderly fashion crude oil resources and increased throughput; (f) the significance of the items mentioned in subparagraph (e) in respect of costs of production and the likely effect thereon on expansion of markets and cost to consumers.

Ample evidence and discussion of the foregoing criteria was had during eight days of hearing and argument.

All three applicants stressed the considerable saving which can be effected by means of the construction of a transmission and gathering system, as compared with the present methods of transportation by truck and/or rail, and the desirability of a prompt judgment being issued.

Due in no small measure to the initiative shown by S. & M.—which initiative I think is worthy of some recognition and to which I will refer later—proof was made that notwithstanding the existence of a tight supply market in respect of the required materials and equipment, if orders were placed by the successful applicant in the very near future, it would be possible to obtain progressive and complete delivery before the end of the current year. At the instance of S. & M., Mr. Richard W. Jernigan, President of Majestic Contractors Limited, a reputable contracting firm experienced in the laying of pipe lines, testified that it was ready and willing to commence construction on the transmission line forthwith, if materials were available, and that, given favourable weather conditions, the line could be laid before the middle of December this year.

Trans-Prairie envisaged the fiscal operation of the line so as to provide to the equity shareholders a return of 7 per cent on all capital invested. The reward to the sponsor of the operation would be in the form of less expensive equity stock and, to all holders of the common shares, the spread between the cost of debt capital and the proposed return.

S. & M. submitted a very similar structure, resting on the same underlying philosophy. Both of the aforementioned applicants submitted schedules, showing proposed tariffs based on certain given throughputs that would produce these results.

The approach of Westspur Pipe Line Company was somewhat different, and in particular no provision was made for special advantage to any one sponsor. Their viewpoint was clearly outlined by Mr. McGibbon in answer to my questions in the course of the hearing:

> "Their" (the producers') "main concern is to protect or to ensure the most economic and efficient operation of the company and to net back the highest price for crude oil at the well."

This was further elaborated upon as follows:

> "On the other hand of course there are other offsetting factors which would have to be taken in consideration by the Westspur management. In the first place, business prudence would indicate the advisability of earning some profit to provide against contingencies and would help provide

equity funds that might be necessary for the financing of an expanded operation and new facilities. Furthermore, of course, the producers have a financial interest in this line in the form of their investment in capital stock and it is reasonable I think that such investment should pay its way and have some return."

It is not our intention to set out in detail how each application measures up with the others when considered in the light of all the standards used by the Board in reaching its conclusion. Under the circumstances and in the interest of expedition, we think it will suffice for the Board to say that after weighing the evidence and argument and the facts and circumstances placed before us, we are of the opinion that on balance the application submitted by Westspur Pipe Line Company is the most meritorious.

I wish to commend the initiative of S. & M., herein previously referred to. I feel that the valuable contribution made by S. & M. towards expediting the availability of contractors and suppliers of materials in some manner should be recognized by Westspur. It can now enure to the benefit of the latter in the same manner as if S. & M. had been the successful applicant.

Mr. R. A. Cruickshank, on behalf of Canadian Devonian Petroleums Limited and S. & M., testified that the former company, in the event that S. & M. were unsuccessful as an applicant, was desirous of having an opportunity to review a previous offer, since lapsed, made by Westspur to subscribe to the initial issue of equity stock of Westspur, in the event that that company became the successful applicant. I understand that this original offer was to participate to the extent of 6¼ per cent.

I concur in the reasonableness of the foregoing desire expressed by Mr. Cruikshank. For Westspur to accede to it would be consistent with its declared policy in dealing with other producers in the area. This is borne out by the following question I asked Mr. McGibbon and by his reply (speaking on behalf of Westspur):

"Q.—You have an idea that the more producers in the area that you can get to subscribe for stock, the better kind of set-up you have?—A. That is precisely it."

In addition, Mr. Lantz, also speaking for Westspur, said in answer to a question put to him by Mr. Barrett of Counsel for the latter Company:

"Q.—What is your opinion as a representative of Imperial Oil, one of the shareholders in Westspur Pipe Line Company, concerning the possible addition of other producers in the future?—A. I would favour the admission, the participation by other companies if and when they become producers in the area served by the line."

In so far as Canadian Devonian Petroleums Limited is concerned, there is no question of having to wait until it has reached the producing stage; it is already a substantial producer in the area.

In these circumstances, I strongly recommend that Canadian Devonian Petroleums Limited be given a renewed and reasonable opportunity to become one of the initial subscribers, at least to the extent indicated in the original offer.

There remains to be dealt with the question which was obliquely raised with respect to the Board's jurisdiction to grant any of the applications as applied for, on constitutional grounds.

Mr. Jas. H. Stitt, Q.C., read certain paragraphs of a letter of instructions received by him from the Attorney General of Manitoba, as follows:

> "There is no doubt that a pipe line coming from Midale in Saskatchewan to Cromer in Manitoba is an interprovincial line and should be dealt with under the Federal Act.
>
> However, when it comes to 'gathering systems' wholly within the Province it may be that such 'gathering system' should be handled under the Provincial Act.
>
> Will you please appear before the Board on our behalf and draw their attention to the provisions of our Act."

Mr. Cawley, Director of Petroleum and Natural Gas Branch, Department of Mineral Resources, Province of Saskatchewan, also expressed the view that gathering systems come within the jurisdiction of the provinces and he requested that the Board grant leave to construct only the so-called main trunk system from Midale to Cromer or in the alternative require the successful company to license laterals and gathering systems under the provincial pipe lines Act.

The issue that has been raised is as to the Board's power to grant leave to construct the gathering lines.

All Counsel for the applicant companies were in agreement that the Board has jurisdiction to grant leave to construct the whole proposed line, including the gathering lines.

The Parliament of Canada by the Pipe Lines Act conferred jurisdiction on the Board to grant a "company", as defined in that Act, leave to construct a "company pipe line", also as defined in that Act. The Board has already on several occasions held that, Parliament having legislated, it does not appear to be the function of the Board to state whether the legislation is *ultra vires* or not. However, in the present applications, the Board must determine whether the applicant companies and their proposed pipe lines are "companies" and "company pipe lines" respectively under the Pipe Lines Act.

The definitions of "company" and "company pipe line" are set forth in paragraphs "(*b*)" and "(*c*)" of the Act as follows:

> "(*b*) 'company' means a person having authority under a Special Act to construct or operate pipe lines for the transportation of oil or gas;
>
> (*c*) 'Company pipe line' or 'line' means a pipe line for the transportation of oil or gas that a company is under a Special Act authorized to construct or operate or is owned by or leased to a company and that is subject to the legislative authority of the Parliament of Canada, and includes all branches, extensions, tanks, reservoirs, pumps, racks, loading facilities, inter-station systems of communication by telephone, telegraph or radio, and property real and personal and works connected therewith;"

"Special Act" is defined in paragraph "(*h*)" as follows:

> "(*h*) 'Special Act' means an Act of the Parliament of Canada that authorizes a person named in the Act to construct or operate pipe lines for the transportation of gas or oil or that is enacted with special reference to such pipe lines;"

Each of the applicant companies was incorporated by Special Act of Parliament in 1955 and each of them was authorized in somewhat similar words to construct and operate pipe lines for the transportation of oil and gas.

Section 6 of Westspur's Act is in part as follows:

"6. The company, subject to the provisions of any general legislation which is enacted by Parliament relating to pipe lines for the transmission and transportation of crude oil and other liquid and gaseous hydrocarbons, may

(*a*) within Canada in the Northwest Territories and the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba and outside Canada, construct, purchase, lease, or otherwise acquire and hold, develop, operate, maintain, control, lease, mortgage, create liens upon, sell, convey or otherwise dispose of and turn to account any and all interprovincial and extra-provincial pipe lines connecting a province with any other or others of the provinces or extending beyond the limits of a province and all works and appurtenances relative thereto for gathering, processing, transmitting, transporting, storing and delivering crude oil and other liquid and gaseous hydrocarbons; provided that the main pipe line or pipe lines for the transmission of gaseous hydrocarbons shall be located entirely within Canada."

S. & M.'s Act is very similar, with authority to construct and operate "any and all interprovincial extra-provincial and/or international pipe lines, for the transmission and transportation of gas and oil and other liquid and gaseous hydrocarbons, including pumping stations, gathering systems, terminals, storage tanks or reservoirs and all works relative thereto for use in connection with the said pipe lines"

The words in Trans-Prairie's Act are similar to those above quoted in respect of S. & M.

Each company therefore qualifies as a "company" under the Pipe Lines Act.

It is not disputed that the proposed lines are pipe lines for the transportation of oil that the companies are under Special Acts authorized to construct. The answer to the question whether the lines, including the gathering lines, qualify as "company pipe lines" therefore depends on whether they are "subject to the legislative authority of the Parliament of Canada", and this in turn depends on whether they come within the words "other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province" in section 92(10)(*a*) of the British North America Act, 1867.

As has already been stated, each of the proposed lines consists of what has been sometimes referred to as a "main" or "trunk" transmission line and gathering lines. The gathering lines are all located within the Province of Saskatchewan. The so-called main line commences in Saskatchewan and extends across the Saskatchewan-Manitoba boundary to Cromer in Manitoba.

Much evidence was given as to what each proposed undertaking in fact is, the manner in which it is to be carried on, and the physical characteristics of the project.

Having regard to that evidence and the terms of the Special Acts of the Applicants, we find that in each case the gathering lines are part of the proposed interprovincial or extra-provincial pipe line and that the entire line comes within the above-quoted words of section 92(10)(*a*) "other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province" and consequently is subject to the legislative authority of the Parliament of Canada.

Each proposed pipe line is therefore a "company pipe line" within the meaning of those words in the Pipe Lines Act. It follows that the Board has jurisdiction to grant leave to construct any of the lines.

As already stated, we consider Westspur's application to be the most meritorious of the three, and as leave to construct will only be given to one company the Board grants Westspur's application and dismisses the other two.

The Province of Saskatchewan was particularly desirous that the construction of the line be commenced with a view to completion before the end of this year. There was also a general desire and willingness on the part of all the Applicants to have construction completed within that period. We therefore expect that Westspur will proceed to complete the construction of the line with all reasonable speed, but because of the uncertainties of weather during the comparatively short period remaining before the end of December we are not fixing a date certain for completion.

An Order will be issued accordingly.

JOHN D. KEARNEY,
Chief Commissioner.

I concur:
HUGH WARDROPE.

I concur:
A. SYLVESTRE.

OCTOBER 13, 1955.

ORDER No. 87142

In the matter of the application of Westspur Pipe Line Company for an Order granting leave to it to construct a pipe line for the transportation of crude oil and other liquid and gaseous hydrocarbons, from a point in the vicinity of Midale, in the Province of Saskatchewan, to a point in the vicinity of Cromer, in the Province of Manitoba, together with such pipe lines and other facilities as may be required for the purpose of gathering crude oil and other liquid and gaseous hydrocarbons along and in the vicinity of the pipe line route.

File No. 45371·27

and

In the matter of the application of S. & M. Pipeline Limited for an Order granting leave to it to construct a pipe line for the transportation of crude oil from the vicinity of Midale in the Province of Saskatchewan by way of Frobisher, also in the Province of Saskatchewan, to Cromer, in the Province of Manitoba, the said line being approximately 98·5 miles in length, together with such pipe line and other facilities as may be required for the purpose of gathering crude oil along and in the vicinity of the pipe line route.

File No. 45371·26

and

In the matter of the application of Trans-Prairie Pipelines of Canada, Limited, for an Order granting leave to it to construct a pipe line for the transportation of crude oil and other liquid and gaseous hydrocarbons from a point in the vicinity of Midale in the Province of Saskatchewan by way of Frobisher in the Province of Saskatchewan, to Cromer in the Province of Manitoba, together with such pipe lines and other facilities as may be required for the purpose of gathering crude oil and other liquid and gaseous hydrocarbons along and in the vicinity of the pipe line route.

File No. 45371·28

THURSDAY, the 13th day of October, A.D. 1955.

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the application at a sittings of the Board held in Ottawa on September 19, 1955, to September 28, 1955, inclusive, in the presence of Counsel for each of the applicant companies and the Province of Manitoba, Interprovincial Pipe Line Company and a representative of the Department of Mineral Resources of the Province of Saskatchewan—

It is ordered

1. That leave be, and it is hereby, granted to Westspur Pipe Line Company to construct a pipe line consisting of one or more lines of pipe for the transportation of crude oil and other liquid and gaseous hydrocarbons from a point in the vicinity of Midale, Saskatchewan, to a point in the vicinity of Cromer, Manitoba, and a spur from Alida to Nottingham, both in Saskatchewan, the general location of the pipe line and spur being as shown on the map dated May 31, 1955, filed with the Board under File No. 45371·27, together with such pipe lines and other facilities as may be required for the purpose of gathering crude oil and other liquid and gaseous hydrocarbons along and in the vicinity of the pipe line route.

2. That the said applications of S. & M. Pipe Line Limited and Trans-Prairie Pipelines of Canada, Limited, be and they are hereby, dismissed.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87308 Nov. 2—In the matter of Section 387 of the Railway Act and uniform classification and system of railway accounts and reports.

87309 Nov. 2—Permitting removal of slow order at C.N.R. crossing at Lorne Park, Ontario.

87310 Nov. 2—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87311 Nov. 2—Approving automatic protection as installed at the C.N.R. crossing of Melvin Avenue, Sudbury, Ontario.

87312 Nov. 2—Authorizing Calgary Power Limited to construct a water pipe across the company pipe line of the Trans Mountain Pipe Line Company in the Southwest Quarter of Section 32, Township 52, Range 23, West Fourth Meridian, Alberta.

87313 Nov. 3—In the matter of application of the County of Lennox and Addington, Ontario, for an order authorizing the installation of protection at the crossing of Lennox and Addington County Road over the main line of the C.N.R. at mile 196·75, Gananoque Subdivision, Ontario.

87314 Nov. 3—Permitting removal of slow order at C.P.R. crossing of North Queen Street east of station at Dixie, Ontario.

87315 Nov. 3—Permitting removal of slow order at C.N.R. crossing of Lawrence Avenue, Scarboro, Ontario.

87316 Nov. 3—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 11, east of Hearst, Ontario.

87317 Nov. 3—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Gladstone, Manitoba.

87318 Nov. 3—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of tanks, etc. at Winkler, Manitoba.

87319 Nov. 3—In the matter of application of the C.P.R. on behalf of Williston Oil and Gas Company for an order extending the time within which it was authorized by Order No. 84816 to load crude oil into tank cars from tank trucks at Forget, Saskatchewan.

87320 Nov. 3—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at MacNutt, Saskatchewan.

87321 Nov. 3—Authorizing the C.P.R. to use the bridge at mile 6·3 Fredericton Subdivision, New Brunswick.

87322 Nov. 3—Permitting removal of slow order at C.P.R. crossing of Garafraxa Street, Durham, Ontario.

87323 Nov. 3—Authorizing the C.N.R. to install certain protection at the crossing of Highway No. 51 between Rivière Bleue and Sully, Quebec.

87324 Nov. 3—Authorizing the Quebec Department of Roads to relocate the crossing of the C.N.R. and Ruisseau St. Georges Road in the Parish of St. Jacques, County of Montcalm, Quebec.

87325 Nov. 3—Authorizing the C.P.R. to construct a private siding across Borden Avenue, Kitchener, Ontario.

87326 Nov. 3—Relieving the C.N.R. from erecting right-of-way fencing between certain mileages on their Gladstone Subdivision, Manitoba.

87327 Nov. 3—Requiring the C.N.R. to install certain protection at the crossing of Nine Mile Road near the City of Cornwall, Ontario.

87328 Nov. 3—In the matter of application of Westspur Pipe Line Company for an order approving plan showing location of the Alida gathering lines, in the Province of Saskatchewan, etc.

87329 Nov. 4—Authorizing The Algoma Central and Hudson Bay Rly. Co. to operate the bridge over the Mattawishquaia River District of Algoma, Ontario.

87330 Nov. 4—Authorizing the Consumer's Gas Company of Toronto to construct a gas main under the company pipe line of Trans Northern Pipe Line Company, west of Yonge St. Twp. of North York, Ontario.

87331 Nov. 4—Authorizing the British Columbia Department of Highways to construct an overhead bridge over the C.P.R. at mileage 12·49 Shuswap Subdivision, British Columbia.

87332 Nov. 4—Permitting removal of slow order at C.P.R. crossing east of station at Melita, Manitoba.

87333 Nov. 4—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canada and Gulf Terminal Railway Company under Section 8.

87334 Nov. 4—Approving Supplements to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioner for the Telephone System of the Municipality of the Township of Bruce.

87335 Nov. 4—Authorizing the C.N.R. to install certain protection at the crossing of John Street, Toronto, Ontario.

87336 Nov. 4—Authorizing the C.N.R. to use the bridge over Roblin Creek, Man.

87337 Nov. 4—Authorizing the C.P.R. to use the subway at First Street, Medicine Hat, Alberta.

87338 Nov. 4—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near C.N.R. tracks, at Birsay, Saskatchewan.

87339 Nov. 4—Approving proposed location of storage tank of Imperial Oil Limited, near C.N.R. track at Warren, Manitoba.

87340 Nov. 4—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Fernie, British Columbia.

87341 Nov. 4—Authorizing the Municipal District of Minburn No. 72, Alberta, to relocate the highway crossing of the C.N.R. at mile 34·5 Vegreville Subdivision, Alberta.

87342 Nov. 4—Permitting removal of slow order at C.N.R. crossing east of the Town of Fort Erie, Ontario.

87343 Nov. 4—Permitting removal of slow order at C.P.R. crossing at Zorra, Ontario.

87344 Nov. 4—Requiring the C.N.R. to install certain protection at the crossing of Boulevard des Chutes in the Town of Beauport, Quebec.

87345 Nov. 7—In the matter of filing of tariffs by the British Columbia Telephone Company.

87346 Nov. 7—Authorizing the C.N.R. to make changes to the interlocking at the crossing of their Railway and the Railway of the C.P.R. in Calgary, Alberta.

87347 Nov. 7—Approving Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de la Petite Nation.

87348 Nov. 7—Authorizing the Township of North York, Ontario, to construct a cast iron water main under the company pipe line of the Trans Northern Pipe Line Company in the Township of North York, Ontario.

87349 Nov. 7—Authorizing the Township of North York, Ontario, to widen Wilson Avenue where it crosses C.P.R. west of Yonge Street, Township of North York, Ontario.

87350 Nov. 7—In the matter of Order No. 87064, which authorized the Saskatchewan Power Corporation to construct a natural gas pipe line across the Interprovincial Pipe Line Co., Saskatchewan.

87351 Nov. 7—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited showing proposed location of storage tank, etc., at Souris, Manitoba.

87352 Nov. 7—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited showing proposed location of storage tank, etc., at La Tuque, Quebec.

87353 Nov. 7—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Wieland, Quebec.

87354 Nov. 7—Authorizing the C.N.R. to construct a spur to serve Hudson Paper Company Limited, in the City of Edmonton, Alberta.

87355 Nov. 7—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Gleichen, Alberta.

87356 Nov. 7—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Golden, British Columbia.

87357 Nov. 7—In the matter of Order No. 84664 which approves plan showing facilities for the loading of crude oil at Innes, Saskatchewan.

87358 Nov. 7—Authorizing the C.N.R. to construct their main line track across the road between Beattyville and Bachelor Lake, Township of Laas, Quebec.

87359 Nov. 7—Authorizing the C.N.R. to construct their main line track across the road between Senneterre and Bachelor Lake, Township of Laas, Quebec.

87360 Nov. 7—Authorizing the Saskatchewan Department of Agriculture to construct certain pipe under the C.N.R. at mile 41·2, Brooksby Subdivision.

87361 Nov. 8—Permitting removal of slow order at C.N.R. crossing of Lovejoy Street, east of station at Richmond, Quebec.

87362 Nov. 8—Permitting removal of slow order at C.N.R. crossing known as Township Road crossing at mileage 3, Humberstone Subdivision, Ontario.

87363 Nov. 8—Permitting removal of slow order at C.P.R. crossing east of station at Secretan, Saskatchewan.

87364 Nov. 8—Permitting removal of slow order at C.P.R. crossing of Montee du Moulin road west of station, Laval des Rapides, Quebec.

87365 Nov. 8—Permitting removal of slow order at C.N.R. crossing of Highway No. 1, near the City of Regina, Saskatchewan.

87366 Nov. 9—In the matter of approval of plan submitted to C.P.R. by Edwards Sudbury Limited, showing proposed location of storage tanks, etc., at Coniston, Ontario.

87367 Nov. 9—Authorizing the C.N.R. to construct a bridge over the O'Sullivan River in the Chibougamau Branch Line, Quebec.

87368 Nov. 9—In the matter of application of the C.P.R. for an order extending the time within which it was required to install certain protection at the crossing of Trans Canada Highway at mileage 6·0 Langdon, Alberta.

87369 Nov. 9—Authorizing the C.N.R. to operate over the Woodbine Avenue subway in the City of Toronto, Ontario.

87370 Nov. 9—In the matter of Order No. 83803 which authorizes the Municipality of Ferrell No. 101, Saskatchewan, to construct a road diversion at mileage 14·06, Gravelbourg subdivision (C.N.R.).

87371 Nov. 9—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc., at Sherbrooke, Quebec.

87372 Nov. 9—Approving proposed location of pipe lines and tank car loading points at Curling, Newfoundland.

87373 Nov. 9—Authorizing the C.N.R. to construct spur track across Morin Street, St. Hyacinthe, Quebec, to serve J. A. Laferte Limited.

87374 Nov. 10—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along the right-of-way of The Chesapeake and Ohio Railway Company, County of Kent, Ontario.

87375 Nov. 10—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada, and La Compagnie de Téléphone d'Yamaska Limitée.

87376 Nov. 10—Authorizing the C.P.R. to remove the station shelter at Fesserton, Ontario.

87377 Nov. 10—In the matter of application of the C.P.R. on behalf of Northern Development Company Limited for an order approving facilities for the loading of crude oil into tank cars from tank trucks at Pierson, Manitoba.

87378 Nov. 10—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank, etc., at Shoal Lake, Manitoba.

87379 Nov. 10—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Consort, Alberta.

87380 Nov. 10—Approving plan showing proposed location of Westcoast Transmission Company pipe line within the Kamloops Division of the Yale District, British Columbia.

87381 Nov. 10—In the matter of application of Ethyl Corporation of Canada Limited, for an order amending Order No. 86986, which authorized the transportation of samples of flammable liquids by rail express.

87382 Nov. 10—Approving plan showing location of Westcoast Transmission Company Limited pipe line within the Kamloops Division of the Yale District, British Columbia.

87383 Nov. 10—Permitting removal of slow order at C.P.R. crossing of Kelly Lake Road, Ontario.

87384 Nov. 10—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing prposed location of storage tanks at Hebbville, Nova Scotia.

87385 Nov. 10—In the matter of approval of plan submitted to the C.P.R. by Canadian Petrofina Limited, showing location of storage tanks, at Mont Laurier, Quebec.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1955.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLIV JANUARY 1, 1956 No. 19

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In the matter of the application of the Central Vermont Railway Company, a subsidiary of the Canadian National Railway Company, under Section 168 of the Railway Act and Section 2, subsection 3 of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an order granting it leave to abandon the operation of the following line of railway, namely:

That portion of the St. Armand Subdivision in Canada between Iberville, P.Q. (Junction with the Le Moyne Subdivision) and the international boundary near St. Armand, P.Q., a total of 24·73 miles.

File No. 39310·56

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Montreal, P.Q., on June 28, 1955.

Appearances:

W. G. BOYD, for Central Vermont Railway Company.

J. L. DESLIERES, M.P., Brome-Missisquoi.

ADELARD FORGET, for Mr. Hanigan.

P. E. HANIGAN, President, Committee for the Conservation of the People's Railway Rights.

A. LAROCHELLE, Mayor of Stanbridge Station.

64745—1

JUDGMENT

CHASE, Commissioner:

The application in this case and statement in support thereof reads as follows:

"THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

The Central Vermont Railway Company, a subsidiary of the Canadian National Railway Company, hereby applies to the Board under Section 168 of the Railway Act and Section 2, Subsection 3 of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an order granting it leave to abandon the operation of the following line of railway, namely:—

That portion of the St. Armand Subdivision in Canada between Iberville, P.Q. (Junction with the Le Moyne Subdivision) and the international boundary near St. Armand, P.Q., a total of 24·73 miles.

It is the intention of the applicant to seek authority to abandon operation of the whole of the St. Armand Subdivision between Iberville, P.Q. and St. Albans, Vt. and to this end, authority to abandon that portion within the State of Vermont will be requested from the appropriate authority in the United States. The applicant therefore submits herewith a statement setting forth a general description of the whole line intended for abandonment, its special industrial relationships, its revenues and expenses for the calendar years 1952 to 1954 inclusive, an analysis of its freight traffic for the same years and a map of the territory through which it runs. It is requested that this matter be set down for hearing at an early date.

A copy of this application and the statement submitted herewith is being sent to the persons named below.

Dated at the City of Montreal this 25th day of May, 1955.

J. W. G. MACDOUGALL,
Commission Counsel.

Hon. Maurice L. Duplessis, Premier of the Province of Quebec, Quebec, Que.
Hon. Alcide Cote, M.P. for St. Jean-Iberville-Napierville, St. Jean, Que.
Jos. L. Deslieres, M.P. for Brome-Missisquoi, Sweetsburg, Que.
Jean-Jacques Bertrand, M.L.A. for Missisquoi, Sweetsburg, Que.
Yvon Thuot, M.L.A. for Iberville, 94—1st Street, Iberville, Que.
A. Daudelin, Warden of Iberville County, St. Alexandre, Que.
D. J. Murphy, Warden of Missisquoi County, St. Ignace-de-Stanbridge, Que.
H. Beaudry, Mayor of St. Alexandre, Que.
A. Larochelle, Mayor of Stanbridge Station, Notre Dame de Stanbridge, Que.
A. Gelineau, Mayor of St. Armand West, St. Armand Station, Que.

CENTRAL VERMONT RAILWAY COMPANY
PROPOSED LINE ABANDONMENT
Northern Division—St. Armand Subdivision
From: St. Albans, Vermont to Iberville, Que.
Distance 38·92 miles

1. *History*

The present St. Armand Subdivision began operation in 1864. From St. Jean, Que., to the international boundary it was part of the Montreal and Vermont Junction Railway Co. and from the international boundary to St.

Albans, Vermont, it was part of the Vermont and Canada Railroad Co. These lines were operated by the Vermont Central Railroad Co. until 1873 after which they were known as the Central Vermont Railway Co.

By 1899 the Grand Trunk Railway Co. had gained a controlling interest in the Central Vermont Railway Co. In 1923 railway amalgamation in Canada shifted Central Vermont Railway responsibility to the Canadian National Railways. In 1927 the Central Vermont Railway went into receivership as a result of disastrous floods. This receivership was discharged in 1930 and since then the Central Vermont Railway has been owned and operated by the Canadian National Railways.

The St. Armand Subdivision originally formed part of the C.V.R. main line to Montreal. As time went on, the railway became faced with heavy maintenance expenditures for some of the bridges on this line and as an economy measure a connection was built at Cantic, Que., so that heavy traffic to and from Montreal could be routed over the C.N.R. Rouses Point and Alexandria Subdivisions, connecting with the C.V.R. at East Alburg, Vermont near St. Albans. This change in operation became effective in November, 1946.

2. *General*

The line proposed for abandonment comprises most of the St. Armand Subdivision—Iberville, Que., located across the Richelieu River from St. Jean to North Jct., Italy Yard at St. Albans, Vermont. From Iberville the line runs in a southeasterly direction to the vicinity of Stanbridge, Que. and then runs south into the State of Vermont, joining the Swanton Subdivision at North Junction (See Map).

There are eleven communities tributary to the line with a total population of about 6,000. There are four towns situated on the line that receive and ship freight. The area is traversed by excellent roads and is well served by buses and trucks.

3. *Condition of Way and Structures*

The rail is in fair condition. The following table shows the weight, age and year laid of rail on the St. Armand Subdivision:

Miles	*Weight*	*Year Rolled*	*Year Laid*	
9·88	90#	1926	1926	
2·84	"	1924	1924	
10·01	85#	1924	1925	
4·97	"	1923	1923	
1·46	"	1924	1924	
0·11	"	1918	1918	
5·36	"	1924	1924	
1·49	80	1921	1921	
0·86	100	1927	1930	Relay
1·94	"	1932	1935	

The ties are all treated and the track is ballasted with cinders. The drainage is fair and the condition of the buildings along the line varies from fair to poor. The maximum curvature on this Subdivision is 2 degrees while the

maximum grade southerly is 1·17 per cent and northerly 1·67 per cent. There are nine bridges all in poor condition, one of which is in such bad condition as to be restricted as follows:

Pike River Bridge, Mile 157·70—Steel Through Truss

Engines heavier than 1,000 H.P. Alco diesel switchers and C.N.R. 40 per cent Pacific and 40 per cent Consolidation types are prohibited from operating over this bridge. *Exception:*—450 class engines may be operated in emergencies only. Speed of ten (10) miles an hour must not be exceeded. Locomotives must not work steam or brakes must not be applied while passing this bridge.

When two engines in service are operated in a train, there must be at least three (3) cars between the engines while passing over this bridge.

Because of deferred maintenance of way and structures during the past few years, this line, and particularly the bridge mentioned above, is in very poor condition and if operation is to be continued, the following major expenditures will be required in the near future to keep it in a safe operating condition.

From Iberville, Que., to North Jct., Vt.—38·92 miles

Bank widening and ballasting	$175,000
Ties	60,000
Bridges (9) and Buildings	125,000
Total	$360,000

4. *Train Service*

During 1952 the train service consisted of a way freight between St. Albans, Vt., and St. Johns, Que., Tuesdays and Fridays returning the same day. The passenger service consisted of a diesel-electric unit car, making a daily round trip between St. Albans and Montreal via St. Johns.

The passenger service was discontinued on October 1, 1953 as authorized by the Board of Transport Commissioners, Order No. 82242.

The way freight service is now operated only when required on Tuesdays and Fridays.

The town of Stanbridge, Que., located on this line is served also by the Canadian Pacific Railway.

5. *Highway Service*

The area is served by the following bus lines:

The Provincial Transport Co.
The Greyhound Bus Lines.
The Vermont Transit Co.
Robert and Robert Bus Lines.

6. *Statistics of Towns in the Area*

Stations between North Jct. (St. Albans) and Iberville, Que. Receiving and Shipping Freight	*Population*	*Distance to continuing Station if Line Abandoned*
St. Alexandre, Que.	350	8 miles to Iberville
Des Rivieres, Que.	100	3 miles to Stanbridge, C.P.R.
*Stanbridge, Que.	400	Served by C.P.R.
*St. Armand, Que.	300	8 miles to Bedford, C.P.R.
	1,150	

*—Agency Stations.

Towns and Parishes Tributary to the Line.	*Population*	*Nearest Town Located on the line*
*St. Alexandre, Que. (Parish)	1,100	St. Alexandre—2 miles
Notre Dame de Stanbridge Que. (Parish)	800	Des Rivieres—2 miles
Henryville, Que.	700	Stanbridge—10 miles
St. Sebastien, Que. (Parish)	950	Stanbridge— 7 miles
Pike River, Que.	500	Stanbridge— 2 miles
Bedford (on C.P.R.) Que. (Township)	450	Stanbridge— 3 miles
Philipsburg, Que.	500	St. Armand—2 miles
Highgate Springs	300	Swanton—4 miles
	5,300	

*—Includes St. Alexandre Station.

7. *Effect of Abandonment on Railway Employees*

Abandonment of the line between Iberville, Que. and St. Albans, Vt. would result in a reduction of track maintenance forces of three foremen and five sectionmen.

Station employees would be reduced by two agent operators.

There would be no reduction in train crews because with the provisional train service now in operation the train crews also have other assignments.

8. *Revenues and Expenses*

Since passenger service was discontinued on the St. Armand Subdivision on October 1, 1953 the operating results for 1952, 1953 and 1954 in the following statement are based on freight operation only.

	1952	*1953*	*1954*
Total System Revenues	$	$	$
Freight	34,643	30,767	27,375
Leases	609	564	314
Miscellaneous	379	49	79
Total	35,631	31,380	27,768
Out-of-Pocket Expenses			
Taxes	1,624	1,654	1,691
Maintenance of Way and Structures	44,683	46,580	26,067
Maintenance of Equipment	3,124	2,909	2,790
Transportation	26,318	26,784	13,395
50% Off-line Operating Ratio on Freight	12,494	9,906	7,662
Total	88,243	87,833	51,605
SYSTEM LOSS	52,612	56,453	23,837"

Shortly after the application was filed and in line with its usual custom, the Board directed one of its Engineers, in company with one of its Operation Inspectors, to make a thorough survey of the line, interview interested parties and make a complete report in respect thereto.

Following receipt of the report, the matter was set down for hearing to be held in the City of Montreal on Tuesday, June 28, 1955. The Board sent notices to all the parties whose names and addresses are listed in the application quoted above and, in addition, notice was sent to Mr. A. Dandurand, Secretary-Treasurer, Committee for the Conservation of the People's Railway Rights, St. Armand Station, Quebec.

At the commencement of the hearing a postponement until September or October was requested by the opposing parties, who claimed that they had not had time to organize and prepare a defence and that at least one of the notices sent out by the Board had been improperly addressed, etc. After considerable discussion, the Board decided to hear the evidence in support of the application, following which it would determine whether or not an adjournment should be granted.

At the conclusion of the hearing, judgment was reserved, and with respect to the request for postponement the opposing parties were granted thirty days from the date of the hearing to file their objections with the Board in writing, a copy to be sent to the Central Vermont Railway Company (C.N.R.), and the Board allowed the latter reasonable time to comment on these objections if they should wish to do so before judgment was rendered.

During the hearing the railways submitted eight exhibits showing, *inter alia*, traffic originating and terminating at the various stations on the line in Canada, the revenues and expenses relating to the St. Armand Subdivision between St. Albans (North Junction, Vermont) and Iberville, Quebec (some 14 miles of which are in the State of Vermont), concluding with an exhibit showing revenues, expenses and losses relating to the Canadian National System as a whole for the years 1952, 1953 and 1954.

Exhibit No. 8 reproduced below is of particular interest but it does not completely show what the system losses would amount to if the line were kept in operation. This exhibit will be referred to later in this judgment.

"EXHIBIT NO. 8

CENTRAL VERMONT RAILWAY

Loss Incurred on the St. Armand Subdivision between St. Albans (North Jct.) Vt. and Iberville, Que. for the years 1952 to 1954, both inclusive.

Total System Revenues	*1952*	*1953*	*1954*
Freight	$34,643	$30,766	$27,376
Leases	609	564	313
Miscellaneous	379	50	79
Total	$35,631	$31,380	$27,768
Out-of-Pocket Expenses			
Branch Line			
Taxes	$ 1,624	$ 1,654	$ 1,691
Maintenance of Way and Structures	44,683	46,580	26,067
Maintenance of Equipment	3,124	2,909	2,790
Transportation	26,318	26,784	13,395
Off Line Expenses			
50% Operating ratio on Freight	12,494	9,906	7,662
Total	$88,243	$87,833	$51,605
SYSTEM LOSS	$52,612	$56,453	$23,837

Montreal, Que., June 27, 1955."

CONDITION OF LINE

In evidence it was stated that the line, generally speaking, is in poor condition. The track is classed as Class E, the lowest category. As a matter of fact, at page 3275 of the transcript, during the examination of Mr. F. W. Hutchinson, Chief Engineer of the Central Vermont Railway, he stated in reply to a question:

"Well, it is almost sub-E now, we want to get it into E."

And Continuing:

"Q. That is the lowest classification you have?—A. Yes.

Q. In other words, just barely enough to operate on?—A. That is right."

Mr. Hutchinson also stated that the bridge at Pike River is in such poor condition that only a light engine could be operated over it at a speed restricted to 10 miles an hour and that while passing over the bridge locomotives are not permitted to work steam or apply the brakes.

At page 3277 of the transcript the following appears:

"Q. Now, what would you say, having described these ways and structures on this line, what would you say as to the extent of the deferred maintenance on them?—A. Well, we should spend in round figures $364,000 within—we should start right away.

Q. How much is that?—A. $364,000.

Q. $364,000 would be required to restore the line to what condition?—A. To Class E."

At page 3278 the following questions and answers appear:

"Commissioner CHASE: In what period of time would you need to spend that $364,000?—A. This year and next, I would say.

Q. These two years?—A. Yes, three years at the outside."

TRAIN SERVICE

No passenger service is operated on this line and in reply to questions submitted to Mr. Donald M. Kerr, General Manager, Central Vermont Railway, he stated that in the year 1954, 63 trains were operated and up to May, 1955, 22 trains were operated, and during the month of May alone only two trains were operated in the entire month.

Mr. Kerr also stated that the main, if not the only real industry located on the line, was the Champion Milk Products Company and that arrangements had been made for a connection to be constructed between the private siding of that Company located on the Central Vermont line and the Canadian Pacific Railway, whose tracks are parallel to the C.V. tracks. This in turn would permit that industry to be served by the C.P.R. and Mr. Kerr also stated: "They are perfectly satisfied with the arrangement."

The case for the opposing parties was submitted to the Board under date of July 26, 1955, with a covering letter reproduced immediately below.

"St. John, July 26, 1955.

Board of Transport Commissioners for Canada,
Ottawa, Ont.

Re: File No. 39310·56—Application of the Vermont Central Railway for authorization to abandon the operation of the railway line between St. Armand and Iberville, P.Q.

Gentlemen,—

Following your permission to produce a written defence in the above-mentioned matter, you will find enclosed:

1a—Letter from Torrington Co. Ltd., signed by D. J. Reid.
1 —Letter from Arpin & Freres, signed by Paul Arpin.
2 —Letter from Raoul Lareau & Fils.
3 —Letter from G. H. Dupuis & Fils.
4 —Letter from Antonio Hebert.
5 —Letter from Edeas Messier.
6 —Letter from Tetreault & Verdonck Enrg.
7 —Petition signed by several merchants served by Central Vermont.
8 —Resolution of the Municipal Corporation of St. Pierre de Verone (Pike River).
9 —Resolution of the Municipal Corporation of St. Armand West.
10 —Resolution of the Municipality of St. Alexandre.
11 —Resolution of the Municipal Corporation of Notre Dame de Stanbridge.
12 —Letter and proof of P. E. Hanigan, both personally and as President of The Committee for Conservation of the People's Railway Rights.

I am forwarding today, by registered mail, copy of these letters and resolutions to G. W. Boyd, Counsel for Central Vermont Railway; the whole humbly submitted.

(Sgd.) ADELARD FORGET, Jr.
Advocate."

The letters and petition Nos. 1 to 12 mentioned in the letter above have been most carefully analysed but in my opinion no evidence has been submitted which would in any way justify the Board in denying the application of the railway. As an indication, I quote from Letter No. 1 dated July 26, 1955, signed by Mr. D. J. Reid, for the Torrington Company Limited. It reads in part:

". . . When the service on this line was curtailed we found it necessary to reroute these shipments over the C.P.R. which is a much longer distance and delivery of our shipments are delayed considerably causing much inconvenience and added expense.

We feel that it will be most unfortunate for those concerned if this line is definitely abandoned permanently. Conditions may change in the future which might make the maintenance of this line very necessary."

While I have quoted only part of the letter, the conclusion I reach is that some years back the Torrington Company did ship via C.V.R. They now ship via C.P.R., even though the distance is longer and deliveries are delayed, with resulting inconvenience and added expense. They do not even suggest that if the line is kept in operation they will ship via C.V.R. They merely express a hope for the future and I would here refer to their own expression: "For those concerned."

I would also refer to the petition shown as No. 7 in the letter quoted above. The preamble reads:

> "We the undersigned Merchants, Shippers and Receivers of freight located along, and being served by Central Vermont Railway, hereby certify that we have not been called on by the C.V.R. Freight Solicitor in view of keeping in contact with local conditions, and getting more business. No such call has been made during the past 25 years, although the Canadian Pacific Railway Freight Solicitor calls on their customers regularly every month."

This petition is signed by some of the companies or persons who also wrote letters as referred to in the letter from Mr. Forget quoted above.

In all, the petition is signed on behalf of seven companies or persons who describe themselves as merchants, etc. They complain, as indicated in the preamble, that the Central Vermont Freight Solicitor has not called upon them yet and in no instance have they indicated in any way to the Board that if the line is kept in operation they will use it.

Among others, the petition is signed by Mr. P. E. Hanigan, President of the Committee for the Conservation of the People's Railway Rights, and under date of August 29, 1955 Mr. Hanigan wrote the Board, stating in part:

> "I beg to advise that there will be a heavy movement of hay from this district to be loaded at St. Alexandre, Quebec, Des Rivieres, Quebec and Stanbridge, Quebec. This traffic will be for delivery to North Carolina where there is a great shortage of hay. The loading and shipping have already started and there will be 100 carloads or more shipped during the coming winter.
>
> The above movement of hay traffic will help greatly to put the operation of this line on a paying basis."

With all respect to Mr. Hanigan and his views, it must be borne in mind that the revenue on 100 cars of hay, moving from the points mentioned in his letter to North Carolina and being hauled for only a few miles by way of the Central Vermont Railway, would be very small. Moreover, there is at the moment no indication that there would be a continuation of this traffic in the future. As I see it, the cold, hard facts are that the traffic formerly handled by the C.V. Railway is now being handled almost 100 per cent by other forms of transport and it should be noted that the territory is served by good highways and, in addition, some of the localities are served by the Canadian Pacific Railway Company.

SUMMARY

Turning first to Exhibit No. 8, it will be noted that the system losses were:

1952	$52,612.
1953	$56,453.
1954	$23,837.

At first glance it would appear as if there was a considerable betterment of the financial position of the railway in 1954 as compared with the years 1952 and 1953. The reduction in the losses for the year 1954 were, however, explained by Witness Hoganson in the following manner:

(1) The maintenance was deferred in anticipation of abandonment.

(2) Fewer trains were operated in the year 1954, the reduction being from two to approximately one train per week.

In assessing the losses, if the line were to continue in operation, deferred maintenance must be taken into account. It has already been shown that within the next three years an expenditure of $364,000 will be required, an average of over $132,000 per year, and at the end of that time it will still be Class E track. Moreover, unless traffic on the line increases to a very considerable degree, the Canadian National System as a whole will still suffer a considerable loss in each of the years to come.

As we have said in previous cases, the Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines. The issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involved would impose upon the railway.

Here we would refer to some previous decisions of the Board:

(1) C.N.R. Westport Subdivision, Ontario, year 1952, 69 C.R.C. page 136. Abandonment of operation of 40·51 miles. System saving if line abandoned $83,035. Application granted.

(2) C.N.R. Algonquin Subdivision, Ontario, Board's file No. 39310·17. Judgment dated January 17, 1955. Application to abandon 39·95 miles of the Algonquin Subdivision. System saving if line abandoned $97,109. Application granted.

(3) C.N.R. Scotia Subdivision in Pictou County, N.S. Board's file No. 39310·61. Judgment dated March 8, 1955. Application to abandon 5·24 miles of line. System saving somewhat in excess of $20,000 per annum. Application granted.

(4) C.N.R. Elgin Subdivision, N.B. Board's file No. 39310·2. Judgment dated March 11, 1955. Application to abandon 13·5 miles of line. System saving if line abandoned $25,000 per annum. Application granted.

In the present case, the mileage to be abandoned is 24·73 with a system saving which I would estimate as being at least $50,000 per annum. Considering the decisions in the cases mentioned above, the substantial loss to the railways, the report of the Board's Engineer and Operating Inspector and all that was presented to the Board at the hearing and subsequent thereto, we believe that the application for abandonment is justified. The loss to the railways outweighs the loss and inconvenience to the public.

The application is approved and Order will go accordingly.

October 18, 1955. H. B. CHASE.

I concur:

A. SYLVESTRE.

ORDER No. 87217

In the matter of the application of the Central Vermont Railway Company, a subsidiary of the Canadian National Railway Company, hereinafter called the "Applicant Company", under section 168 of the Railway Act and section 2 subsection 3 of the Canadian National-Canadian Pacific Act and all other relevant statutory provisions for an Order granting it leave to abandon the operation of the following line of railway, namely:

That portion of the St. Armand Subdivision in Canada between Iberville, Province of Quebec, (Junction with the LeMoyne Subdivision) and the international boundary near St. Armand, Province of Quebec, a distance of 24·73 miles:

File No. 39310·56

THURSDAY, the 20th day of October, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Montreal, Province of Quebec, on June 28, 1955, in the presence of Counsel for the Canadian National Railways and the Committee for Conservation of the People's Railway Rights, and representatives for the County of Brome-Missisquoi and Stanbridge Station, in the Province of Quebec—

It is ordered that the abandonment of the Applicant Company's line of its St. Armand Subdivision in Canada between Iberville, Province of Quebec, (Junction with the LeMoyne Subdivision) and the international boundary near St. Armand, Province of Quebec, a distance of 24·73 miles, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner,

Traduction

En ce qui concerne la requête de la Central Vermont Railway Company, filiale des chemins de fer nationaux du Canada, faite en vertu de l'article 168 de la Loi sur les chemins de fer et du paragraphe (3) de l'article 2 de la Loi sur le National-Canadien et le Pacifique-Canadien et de toutes les autres dispositions statutaires pertinentes, en vue d'obtenir une ordonnance l'autorisant à abandonner l'exploitation de la ligne de chemin de fer suivante:

La partie de la subdivision de Saint-Armand, au Canada, entre Iberville, province de Québec (point de raccordement avec la subdivision de Le Moyne) et la frontière internationale près de Saint-Armand, province de Québec, soit la distance totale de 24·73 milles.

Dossier n° 39310·56

Devant:

M. A. SYLVESTRE, C.R., *commissaire en chef suppléant*
M. H. B. CHASE, C.B.E., *commissaire*

Entendue à:

Montréal (P.Q.) le 28 juin 1955

Ont comparu:

M. W. G. BOYD, *pour la Central Vermont Railway Company*
M. J.-L. DESLIÈRES, *député de Brome-Missisquoi*
M. ADÉLARD FORGET, *pour* M. HANIGAN
M. P. E. HANIGAN, *président du Committee for the Conservation of the People's Railway Rights*
M. A. LAROCHELLE, *maire de Stanbridge-Station*

JUGEMENT

M. CHASE, commissaire:

Dans la présente cause, la requête et le mémoire à l'appui se lisent ainsi:

"LA COMMISSION DES TRANSPORTS DU CANADA

La Central Vermont Railway Company, filiale de la compagnie des chemins de fer Nationaux du Canada, demande par les présentes à la Commission, sous l'autorité de l'article 168 de la Loi sur les chemins de fer et du paragraphe (3) de l'article 2 de la Loi sur le National-Canadien et le Pacifique-Canadien ainsi que de toutes autres dispositions statutaires pertinentes, d'édicter une ordonnance l'autorisant à abandonner l'exploitation de la ligne de chemin de fer suivante:

La partie de la subdivision de Saint-Armand, au Canada, entre Iberville, province de Québec (point de raccordement avec la subdivision de Le Moyne) et la frontière internationale près de Saint-Armand, province de Québec, soit la distance totale de 24·73 milles.

La requérante a l'intention de demander l'autorisation de discontinuer l'exploitation de toute la subdivision de Saint-Armand comprise entre Iberville (P.Q.) et Saint-Albans (Vt) et, à cette fin, demandera à l'autorité appropriée des États-Unis l'autorisation de discontinuer l'exploitation de la partie qui se trouve dans l'État du Vermont. Par conséquent, la requérante présente le

mémoire ci-joint donnant la description générale de toute la ligne dont l'exploitation serait abandonnée, exposant les rapports industriels spéciaux, les recettes et dépenses de la ligne pour les années civiles 1952 à 1954 inclusivement et comprenant l'analyse du trafic-marchandises des mêmes années ainsi qu'une carte géographique du territoire que la ligne traverse. Elle demande de fixer une date hâtive pour l'audition de cette affaire.

Une copie de la présente requête et du mémoire qui l'accompagne a été adressée à chacune des personnes dont les noms figurent ci-après.

Daté à Montréal le 25 mai 1955.

J. W. G. MACDOUGALL,
Avocat de la Commission.

L'hon. Maurice L. Duplessis, premier ministre de la province de Québec, Québec (P.Q.)

L'hon. Alcide Côté, député de St-Jean/Iberville/Napierville, Saint-Jean (P.Q.)

M. Jos.-L. Deslières, député de Brome-Missisquoi, Sweetsburg (P.Q.)

M. Jean-Jacques Bertrand, député provincial de Missisquoi, Sweetsburg (P.Q.)

M. Yvon Thuot, député provincial d'Iberville, 94-1re rue, Iberville (P.Q.)

M. A. Daudelin, préfet du comté d'Iberville, Saint-Alexandre (P.Q.)

M. D. J. Murphy, préfet du comté de Missisquoi, Saint-Ignace-de-Stanbridge (P.Q.)

M. H. Beaudry, maire de Saint-Alexandre (P.Q.)

M. A. Larochelle, maire de Stanbridge-Station, Notre-Dame-de-Stanbridge (P.Q.)

M. A. Gélineau, maire de Saint-Armand-ouest, Saint-Armand-Station (P.Q.)

PROJET D'ABANDON DE LIGNE DE LA CENTRAL VERMONT RAILWAY COMPANY

Division du Nord—Subdivision de Saint-Armand

De St-Albans (Vermont) jusqu'à Iberville (P.Q.)

Distance: 38·92 milles

1. *Historique*

L'exploitation de la subdivision actuelle de Saint-Armand a débuté en 1864. De Saint-Jean (P.Q.) jusqu'à la frontière internationale, la subdivision faisait partie de la Montreal and Vermont Junction Railway Co. et, de la frontière internationale jusqu'à St-Albans (Vermont), elle faisait partie de la Vermont and Canada Railroad Co. Ces lignes furent exploitées par la Vermont Central Railroad Co. jusqu'en 1873, alors qu'elles prirent le nom de Central Vermont Railway Co.

Dès 1899, la Grand Trunk Railway Co. était devenue la principale intéressée dans la Central Vermont Railway Co. En 1923, la fusion des chemins de fer au Canada faisait passer la responsabilité du Central Vermont Railway aux chemins de fer Nationaux du Canada. En 1927, la gestion du Central Vermont Railway fut confiée à un liquidateur par suite d'inondations désastreuses. Il fut libéré de cette gestion judiciaire en 1930 et, depuis lors, le Central Vermont Railway appartient aux chemins de fer Nationaux du Canada et est exploité par eux.

Au début, la subdivision de Saint-Armand faisait partie de la voie principale du C.V.R. allant jusqu'à Montréal. Avec le temps, la compagnie devait faire de fortes dépenses pour assurer l'entretien de certains ponts de cette voie; par mesure d'économie, un raccordement fut construit à Cantic (P.Q.) de telle sorte que le trafic lourd allant à Montréal et en revenant pouvait passer par les subdivisions de Rouses-Point et d'Alexandria des chemins de fer Nationaux du Canada qui se raccordaient avec la voie du C.V.R. à East-Alburg (Vermont), près de St-Albans. Cette modification de l'exploitation entra en vigueur en novembre 1946.

2. *Généralités*

La ligne dont on propose l'abandon comprend la majeure partie de la subdivision de Saint-Armand, allant d'Iberville (P.Q.) en face de Saint-Jean sur le Richelieu jusqu'à North-Junction, Italy Yard à St-Albans (Vermont). D'Iberville, la voie se dirige vers le sud-est jusqu'au voisinage de Stanbridge (P.Q.), puis vers le sud jusque dans l'État du Vermont où elle rejoint la subdivision de Swanton à North-Junction (voir la carte).

La ligne dessert onze endroits dont la population totale est d'environ 6,000 âmes. Quatre villes situées sur la ligne reçoivent et expédient des marchandises. La région est traversée par d'excellentes routes et est bien desservie par des autobus et des camions.

3. *État de la voie et des ouvrages*

La voie ferrée est en assez bon état. Le tableau suivant indique le poids des rails, leur âge et l'année de leur pose dans la subdivision de Saint-Armand:

Milles	Poids	Année de fabrication	Année de pose	
9·88	90#	1926	1926	
2·84	90	1924	1924	
10·01	85#	1924	1925	
4·97	85	1923	1923	
1·46	85	1924	1924	
0·11	85	1918	1918	
5·36	85	1924	1924	
1·49	80	1921	1921	
0·86	100	1927	1930	Nouvelle pose
1·94	100	1932	1935	

Toutes les traverses ont été traitées et le ballast de la voie est du mâchefer. L'égouttement est assez bon et l'état des bâtiments le long de la ligne varie de passable à médiocre. Le maximum de courbure dans cette subdivision est de 2 degrés, tandis que la déclivité maximum vers le sud est de 1·17 p. 100 et, vers le nord, de 1·67 p. 100. Il y a neuf ponts, tous en mauvais état, dont l'un est en si mauvais état que son emploi est limité ainsi qu'il suit:

Pont de Pike-River (mille 157·70) en acier, à tablier inférieur entre fermes

Les locomotives dont le poids excède celui des locomotives de triage diesel Alco de 1,000 H.P. et des locomotives du type 40% Pacific ou 40% Consolidation des chemins de fer Nationaux du Canada n'ont pas le droit de franchir ce pont. *Exception*: Les locomotives de la classe 450 peuvent le franchir dans les cas d'urgence seulement. La vitesse de dix milles à l'heure ne doit pas être dépassée. Les locomotives doivent couper l'admission de la vapeur et éviter de serrer les freins lorsqu'elles franchissent ce pont.

Quand deux locomotives remorquent un train sur ce pont, il doit y avoir au moins trois voitures entre les locomotives.

Parce que l'entretien de la voie et des ouvrages a été différé depuis quelques années, la ligne et particulièrement le pont mentionné ci-dessus sont dans un très mauvais état, et si l'exploitation sûre doit en être continuée, il y aura lieu de faire les dépenses suivantes dans le proche avenir:

D'Iberville (P.Q.) jusqu'à North-Jct. (Vermont)—38·92 milles	
Élargissement de talus et ballastage	$175,000
Traverses	60,000
Ponts (9) et bâtiments	125,000
Total	$360,000

4. *Service de trains*

En 1952, le service de trains se composait d'un train omnibus à marchandises allant de St-Albans (Vermont) jusqu'à Saint-Jean (P.Q.) les mardis et vendredis et revenant les mêmes jours. Le service-voyageurs comprenait une automotrice diesel-électrique faisant quotidiennement un voyage d'aller et retour entre St-Albans et Montréal via Saint-Jean.

Le service-voyageurs fut discontinué le 1er octobre 1953 tel que l'avait autorisé l'ordonnance n° 82242 de la Commission des transports du Canada.

A l'heure actuelle, le service-marchandises par train omnibus ne fonctionne qu'au besoin les mardis et vendredis.

La ville de Stanbridge (P.Q.), située sur cette ligne, est desservie également par le Pacifique-Canadien.

5. *Service routier*

La région est desservie par les services d'autobus suivants:

La Cie de transport provinciale

Les Greyhound Bus Lines

La Vermont Transit Co.

Les Robert and Robert Bus Lines

6. *Statistiques relatives aux villes de la région*

Gares entre North-Junction (St-Albans) et Iberville (P.Q.) qui reçoivent et expédient des marchandises	*Population*	*Distance jusqu'à une gare en service si la ligne est abandonnée*
St-Alexandre (P.Q.) ...	350	8 milles jusqu'à Iberville
Des-Rivières (P.Q.) ...	100	3 milles jusqu'à Stanbridge, P.-C.
‡Stanbridge (P.Q.)	400	Desservie par le Pacifique-Canadien
‡St-Armand (P.Q.)	300	8 milles jusqu'à Bedford, Pac.-Can.
	1,150	

‡ Gare avec agent.

Villes et paroisses qui dépendent de la ligne	*Population*	*Ville la plus proche située sur la ligne*
♯Saint-Alexandre (P.Q.) (Paroisse)	1,100	Saint-Alexandre—2 milles
Notre-Dame-de-Stanbridge (P.Q.) (Paroisse)	800	Des-Rivières—2 milles
Henryville (P.Q.)	700	Stanbridge—10 milles
Saint-Sébastien (P.Q.) (Paroisse)	950	Stanbridge— 7 milles
Pike-River (P.Q.)	500	Stanbridge— 2 milles
Bedford (P.Q.) (Pac.-Can.) (Canton)	450	Stanbridge— 3 milles
Philipsburg (P.Q.)	500	Saint-Armand—2 milles
Highgate-Springs	300	Swanton—4 milles
	5,300	

♯Y compris Saint-Alexandre-Station

7. *Répercussion de l'abandon de la ligne sur la situation des cheminots.*

Si la ligne entre Iberville (P.Q.) et St-Albans (Vt) est abandonnée, il en résultera une diminution de l'équipe de trois contremaîtres et de cinq cantonniers affectée à l'entretien de la voie.

Dans le cas des employés de gare, il y aurait deux agents de moins.

Il ne se produira aucune diminution du personnel des trains parce que le personnel qui assure le service provisoire actuel a aussi d'autres fonctions.

8. *Recettes et dépenses*

Le service-voyageurs dans la subdivision de Saint-Armand ayant été discontinué le 1er octobre 1953, les résultats d'exploitation pour 1952, 1953 et 1954 qu'indique le bilan suivant sont fondés uniquement sur l'exploitation du trafic-marchandises.

Recettes globales du réseau	1952	1953	1954
	$	$	$
Marchandises	34,643	30,767	27,373
Baux	609	564	314
Divers	379	49	79
Total	35,631	31,380	27,768
Déboursés			
Taxes	1,624	1,654	1,691
Entretien de la voie et des ouvrages	44,683	46,580	26,067
Entretien du matériel	3,124	2,909	2,790
Transport	26,318	26,784	13,395
Frais d'exploitation proportionnels hors-ligne, service - marchandises, 50%	12,494	9,906	7,662
Total	88,243	87,833	51,605
PERTES DU RÉSEAU	52,612	56,453	23,837

Peu après la réception de la requête et conformément à son habitude, la Commission chargea l'un de ses ingénieurs ainsi que l'un de ses inspecteurs d'exploitation de faire un relevé minutieux de la ligne, d'interviewer les parties intéressées et de préparer un rapport complet à cet égard.

Après la réception du rapport, il a été décidé de tenir une audience à Montréal le mardi 28 juin 1955. La Commission fit parvenir des avis à toutes les parties dont les noms et adresses sont énumérés dans la requête ci-dessus et, en outre, un avis fut adressé à M. Dandurand, secrétaire-trésorier du Committee for the Conservation of the People's Railway Rights, Saint-Armand-Station (P.Q.).

Au début de l'audience, les parties adverses ont demandé de renvoyer la cause à septembre ou octobre, alléguant qu'elles n'avaient pas eu le temps d'organiser et de préparer leur défense et qu'au moins l'un des avis envoyés par la Commission avait été mal adressé, etc. Après force discussions, la Commission décida d'entendre la preuve à l'appui de la requête, après quoi elle déterminerait s'il y avait lieu d'accorder un renvoi.

A la fin de l'audience, aucune décision ne fut rendue et, en ce qui concerne la requête de renvoi, les parties adverses se virent accorder trente jours à compter de la date de l'audience pour présenter par écrit leurs objections à la Commission, une copie devant être adressée à la Central Vermont Railway Company (chemins de fer Nationaux du Canada); en outre, la Commission accorda un délai raisonnable à cette dernière pour lui permettre de commenter ces objections, si elle le désirait, avant le prononcé de la décision.

Au cours de l'audience, les compagnies de chemin de fer ont produit huit pièces indiquant, entre autres, le trafic partant des diverses gares au Canada et y arrivant, les recettes et les dépenses relatives à la subdivision de Saint-Armand, entre St-Albans (North-Junction, Vermont) et Iberville (P.Q.), (qui comprend 14 milles dans l'État du Vermont), la dernière pièce indiquant l'ensemble des recettes, dépenses et pertes relatives au réseau du National-Canadien pour 1952, 1953 et 1954.

La pièce n° 8 reproduite ci-dessous est tout particulièrement intéressante mais elle n'indique pas entièrement ce que seraient les pertes du réseau si la ligne était maintenue en exploitation. Cette pièce sera invoquée plus loin dans le présent jugement.

"PIÈCE N° 8

CENTRAL VERMONT RAILWAY

Pertes subies par la subdivision de Saint-Armand entre St-Albans (North-Jct., Vermont) et Iberville (P.Q.) durant les années 1952 à 1954 inclusivement

Recettes globales du réseau	1952	1953	1954
Marchandises	$34,643	$30,766	$27,376
Baux	609	564	313
Divers	379	50	79
Total	$35,631	$31,380	$27,768

	1952	1953	1954
Déboursés			
Embranchement			
Taxes	$ 1,624	$ 1,654	$ 1,691
Entretien de la voie et des ouvrages	44,683	46,580	26,067
Entretien du matériel	3,124	2,909	2,790
Transport	26,318	26,784	13,395
Frais hors-ligne			
Frais d'exploitation proportionnels, service-marchandises, 50%	12,494	9,906	7,662
Total	$88,243	$87,833	$51,605
PERTES DU RÉSEAU	$52,612	$56,453	$23,837

Montréal (P.Q.)
Le 27 juin 1955"

ÉTAT DE LA LIGNE

Il a été déclaré dans la preuve que la ligne, de façon générale, est dans un triste état. La voie est classée dans la classe E, soit la plus basse catégorie. A la page 3275 de la transcription, on trouve même que M. F. W. Hutchison, ingénieur en chef du Central Vermont Railway, a déclaré en réponse à une question lors de l'audition de son témoignage:

> "Elle est presque en dessous de la classe E à l'heure actuelle; nous voulons la placer dans la classe E."

Et ensuite:

> Q. "C'est là la plus basse catégorie que vous ayez?"—R. "Oui."
>
> Q. "En d'autres termes, juste suffisante pour y circuler?"—R. "Exactement."

M. Hutchinson a déclaré également que le pont à Pike-River est en si mauvais état qu'une locomotive légère peut seule y passer à une vitesse limitée allant jusqu'à 10 milles à l'heure et que les locomotives qui traversent le pont ne sont pas autorisées à utiliser la vapeur ni à serrer les freins.

A la page 3277 de la transcription, on lit ce qui suit:

> Q. "Maintenant quel est votre avis, après avoir décrit les voies et ouvrages, sur l'étendue de l'entretien différé?"—R. "En chiffres ronds, je pense qu'il nous faudrait dépenser $364,000 si nous commencions tout de suite."
>
> Q. "Combien?"—R. "$364,000."
>
> Q. "$364,000 permettraient de remettre la ligne en quel état?—R. "Celui de la classe E."

A la page 3278 apparaissent les questions et réponses suivantes:

> M. CHASE, commissaire: "Sur quelle période de temps s'étendrait la dépense de $364,000?"—R. "La présente année et la prochaine, je crois."
>
> Q. "Ces deux années?"—R. "Oui, trois au plus."

SERVICE DE TRAINS

Il ne circule pas de trains de voyageurs sur cette ligne et en réponse aux questions qui lui ont été posées, M. Donald M. Kerr, gérant général du Central Vermont Railway, a déclaré qu'au cours de l'année 1954, 63 trains ont circulé, puis 22 jusqu'à mai 1955 et qu'en mai deux trains seulement ont circulé au cours de tout le mois.

M. Kerr a aussi déclaré que la principale industrie, sinon la seule véritable, située sur la ligne est la Champion Milk Products Company et que des arrangements ont été faits en vue de la construction d'un raccordement entre la voie d'évitement privée de cette compagnie, sur la ligne du Central Vermont, et la voie du Pacifique-Canadien qui est parallèle à celle du Central Vermont. La compagnie serait alors desservie par le Pacifique-Canadien et, de poursuivre M. Kerr, les intéressés "sont entièrement satisfaits de cet arrangement".

La cause des parties adverses a été soumise à la Commission le 26 juillet 1955 en même temps que la lettre ci-dessous:

"Saint-Jean, 26 juillet 1955.

Commission des transports du Canada
Ottawa (Ont.)

Sujet: Dossier n° 39310.56—Requête du Vermont Central Railway en vue d'obtenir l'autorisation d'abandonner l'exploitation de sa ligne de chemin de fer entre Saint-Armand et Iberville (P.Q.)

Messieurs,

Ayant reçu votre permission de présenter une défense écrite dans la cause susmentionnée, je vous envoie ci-inclus:

1a—Lettre de la Torrington Co. Ltd., signée par M. D. J. Reid
1 —Lettre d'Arpin & Frères, signée par M. Paul Arpin
2 —Lettre de Raoul Lareau & Fils
3 —Lettre de G. H. Dupuis & Fils
4 —Lettre d'Antonio Hébert
5 —Lettre d'Edéas Messier
6 —Lettre de Tétreault & Verdonck Enrg.
7 —Pétition signée par plusieurs marchands desservis par le Central Vermont
8 —Résolution de la corporation municipale de Saint-Pierre-de-Vérone (Pike-River)
9 —Résolution de la corporation municipale de Saint-Armand-ouest
10 —Résolution de la municipalité de Saint-Alexandre
11 —Résolution de la corporation municipale de Notre-Dame-de-Stanbridge
12 —Lettre et témoignage de M. P. E. Hanigan tant à titre personnel qu'en qualité de président du Committee for Conservation of the People's Railway Rights.

J'expédie aujourd'hui, sous pli recommandé, copie de ces lettres et résolutions à M. G. W. Boyd, avocat du Central Vermont Railway et vous soumets humblement le tout.

(Signature) ADÉLARD FORGET (fils)
avocat"

Les lettres et pétition n°s 1 à 12 mentionnées dans la lettre ci-dessus ont fait l'objet d'une analyse très attentive et, à mon avis, il n'a été présenté aucune preuve sur laquelle la Commission pourrait se fonder pour refuser la requête de la compagnie de chemin de fer. A titre d'exemple, je cite un extrait de la lettre n° 1 du 26 juillet 1955 signée par M. D. J. Reid au nom de la Torrington Company Limited:

> "...Quand le service a été réduit sur cette ligne, nous avons dû de nouveau expédier ces envois par le Pacifique-Canadien qui se trouve beaucoup plus loin et la livraison de nos expéditions s'en est trouvée considérablement retardée, ce qui a donné lieu à beaucoup d'ennuis et à des frais supplémentaires.
>
> Nous estimons qu'il serait bien regrettable pour les intéressés que cette ligne soit définitivement abandonnée de façon permanente. Les circonstances peuvent changer plus tard et rendre le maintien de cette ligne très nécessaire."

Je n'ai cité qu'une partie de la lettre, mais la conclusion que j'en ai tirée, c'est qu'il y a quelques années la Torrington Company expédiait via le C.V.R. Elle expédie maintenant par le Pacifique-Canadien bien que la distance soit plus grande et la livraison retardée, ce qui entraîne des ennuis et des frais accrus. Elle ne laisse même pas entendre qu'advenant le maintien de la ligne, elle expédierait via le C.V.R. Elle se contente d'exprimer un espoir en l'avenir pour, selon ses propres paroles, "les intéressés".

Je signale maintenant la pétition portant le n° 7 dans la lettre reproduite ci-dessus. Le préambule se lit ainsi:

> "Nous soussignés marchands, expéditeurs et destinataires de marchandises demeurant le long de la ligne du Central Vermont Railway et desservis par lui, déclarons par les présentes que le démarcheur du C.V.R. ne nous a pas rendu visite en vue de se tenir au courant des conditions locales et d'augmenter son chiffre d'affaires. Aucune visite de cette nature n'a été faite depuis 25 ans bien que le démarcheur du Pacifique-Canadien visite ses clients régulièrement chaque mois."

Cette pétition est signée par quelques-unes des compagnies et personnes qui ont adressé les lettres mentionnées dans la lettre de M. Forget reproduite plus haut.

La pétition est signée par sept compagnies ou personnes en tout, lesquelles se disent marchands, etc. Comme l'indique le préambule, les signataires se plaignent que le démarcheur du Central Vermont ne les ait pas encore visités, mais en aucun endroit laissent-ils entendre de quelque façon à la Commission qu'advenant le maintien de la ligne ils l'utiliseraient.

La pétition est signée, entre autres, par M. P. E. Hanigan, président du Committee for the Conservation of the People's Railway Rights et, le 29 août 1955, M. Hanigan écrivait entre autres choses à la Commission:

> "Permettez-moi de vous avertir qu'une importante expédition de foin provenant de cette région devra être chargée à Saint-Alexandre (P.Q.), Des-Rivières (P.Q.) et Stanbridge (P.Q.). Cette marchandise devra être livrée en Caroline du Nord où il y a une grande pénurie de foin. Le chargement et le déchargement sont déjà commencés et 100 wagons ou plus seront expédiés au cours du prochain hiver.
>
> Ce trafic aidera considérablement la ligne à rendre son exploitation payante."

Sans vouloir manquer d'égards envers M. Hanigan et son point de vue, il importe de ne pas oublier que les recettes apportées par 100 wagons de foin dirigés vers la Caroline du Nord à partir des endroits mentionnés dans sa lettre et remarqués par le Central Vermont Railway sur une distance de quelques milles seulement seraient bien minimes. En outre, rien n'indique pour le moment qu'un tel trafic continuerait de se présenter à l'avenir. La réalité me paraît être que le mouvement de marchandises précédemment assuré par le C.V.R. est maintenant assuré presque entièrement par d'autres modes de transport et il convient de remarquer que la région est desservie par de bonnes routes et que, de plus, quelques endroits sont desservis par le Pacifique-Canadien.

RÉSUMÉ

Considérant en premier lieu la pièce n° 8, on remarquera que les pertes du réseau sont les suivantes:

1952	$52,612
1953	$56,453
1954	$23,837

Au premier coup d'œil, on pourrait croire que le chemin de fer a beaucoup amélioré sa situation financière en 1954 par comparaison à celle des années 1952 et 1953. Cependant, M. Hoganson, l'un des témoins, explique ainsi la diminution des pertes en 1954:

(1) L'entretien a été différé en prévision de l'abandon.

(2) Moins de trains ont circulé en 1954, la réduction allant de deux trains à environ un train par semaine.

En estimant les pertes qu'entraînerait le maintien de la ligne, il faut tenir compte de l'entretien différé. Il a déjà été démontré que des dépenses au montant de $364,000 seraient nécessaires au cours des trois prochaines années, soit une moyenne de $132,000 par année, et, à la fin de cette période, on aurait encore une voie de la classe E. De plus, à moins que le trafic de cette ligne n'augmente considérablement, le réseau du National-Canadien dans l'ensemble continuera de subir une perte importante dans chacune des années à venir.

La Loi sur les chemins de fer, nous l'avons déjà signalé dans des causes antérieures, n'établit aucun principe sur lequel la Commission se puisse fonder pour approuver ou désapprouver une demande d'abandon de ligne de chemin de fer. La question soulevée par chaque cause de cette nature se réduit à établir si les pertes et les inconvénients occasionnés au public par suite de l'abandon d'une ligne de chemin de fer l'emportent sur le fardeau que le maintien de cette ligne imposerait à la compagnie de chemin de fer en cause.

Voici quelques décisions antérieures de la Commission:

(1) National-Canadien, subdivision de Westport, Ontario, année 1952, 69 C.R.C. page 136. Abandon de l'exploitation de 40·51 mills. Économie pour le réseau advenant l'abandon de la ligne: $83,035. Requête accordée.

(2) National-Canadien, subdivision d'Algonquin, Ontario, dossier de la Commission n° 39310.17. Jugement en date du 17 janvier 1955. Demande d'abandon de 39·95 milles de la subdivision d'Algonquin. Économie pour le réseau advenant l'abandon de la ligne: $97,109. Requête accordée.

(3) National-Canadien, subdivision de Scotia dans le comté de Pictou (N.-É.). Dossier de la Commission n° 39310.61. Jugement en date du 8 mars 1955. Demande d'abandon de 5·24 milles de ligne. Économie pour le réseau: plus de $20,000 par année. Requête accordée.

(4) National-Canadien, subdivision d'Elgin (N.-B.). Dossier de la Commission n° 39310.2. Jugement en date du 11 mars 1955. Demande d'abandon de 13·5 milles de ligne. Économie pour le réseau advenant l'abandon de la ligne: $25,000 par année. Requête accordée.

Dans le cas à l'étude, il s'agit de l'abandon de 24·73 milles de ligne entraînant pour le réseau une économie que j'estime être d'au moins $50,000 par année. Considérant les décisions rendues dans les cas mentionnés ci-dessus, l'importance des pertes imposées aux chemins de fer, le rapport de l'ingénieur et inspecteur de l'exploitation de la Commission ainsi que tout ce qui a été soumis à la Commission à l'audience et par la suite, nous croyons que la demande d'abandon est fondée. La perte imposée aux chemins de fer l'emporte sur les pertes et les inconvénients que le public aura à subir.

La requête est approuvée et une ordonnance sera rendue en conséquence. Le 18 octobre 1955.

H. B. CHASE

Approbation:

A. SYLVESTRE.

ORDONNANCE N° 87217

Reative à la requête de la Central Vermont Railway Company, filiale des chemins de fer Nationaux du Canada, ci-après appelée "la compagnie requérante", faite en vertu de l'article 168 de la Loi sur les chemins de fer et du paragraphe (3) de l'article 2 de la Loi sur le National-Canadien et le Pacifique-Canadien et de toutes autres dispositions statutaires pertinentes, demandant une ordonnance l'autorisant à abandonner l'exploitation de la ligne de fer suivante:

la partie de la subdivision de Saint-Armand, au Canada, entre Iberville, province de Québec (point de raccordement avec la subdivision de LeMoyne) et la frontière internationale près de Saint-Armand, province de Québec, soit une distance de 24·73 milles.

Dossier n° 39310·56

Le JEUDI 20 octobre 1955

HUGH WARDROPE, *Commissaire en chef adjoint.*

A. SYLVESTRE, C.R., *Commissaire en chef suppléant.*

H. B. CHASE, C.B.E., *Commissaire.*

Après audition de la requête à l'audience tenue par la Commission dans la ville de Montréal, province de Québec, le 28 juin 1955, en présence des avocats des chemins de fer Nationaux du Canada et du *Committee for Conservation of the People's Railway Rights,* ainsi que des représentants du comté de Brome-Missisquoi et de Stanbridge-Station, dans la province de Québec—

Il est ordonné que l'abandon par la compagnie requérante de la ligne de sa subdivision de Saint-Armand, au Canada, entre Iberville, province de Québec (point de raccordement avec la subdivision de LeMoyne) et la frontière internationale près de Saint-Armand, province de Québec, représentant une distance de 24·73 milles, soit par les présentes autorisé.

HUGH WARDROPE.

Le Commissaire en chef adjoint de la Commission des transports du Canada.

ORDER No. 87488

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Canadian Freight Classification No. 20:

File No. 47833·7

MONDAY, the 28th day of November, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in *The Canada Gazette,* as required by section 325 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections, if any, be filed with the Board within thirty days; no one offering any objection:

And upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Canadian Freight Classification No. 20, Agent R. K. Watson's C.T.C. No. 1525, on file with the Board under file No. 47833·7, be, and it is hereby, approved subject to the following change:

"Add to the Supplement the following provision:—

Amend Item 12530-A, page 28 of Supplement 3 to the Classification to read:

Note 2.—Unless otherwise provided, the minimum charge for the transportation of a single shipment of High Explosives is 250 lbs. at class 200 but not less than $12.00 per shipment."

HUGH WARDROPE,
Assistant Chief Commissioner,

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, SEPTEMBER, 1955

Railway Accidents.....	230	Killed	12	Injured	243
Level Crossing Accidents.....	43	Killed	16	Injured	46
Total	273		28		289

	Killed	*Injured*
Passengers	2	56
Employees	3	179
Others	23	54
Total	28	289

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		QUEBEC
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Que. T-2023.
—	1	Auto truck stalled on crossing and struck by switcher. Licence: Que. 68-89.
—	1	Converted bus drove onto crossing in front of approaching train and was struck. Licence: Que. 16-772.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Que. 186-699.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Que. 158-940.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-49776.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Que. 105-544.
—	1	Auto ran into side of engine. Licence: Que. 488-559.
1	3	Auto ran into side of train. Licence: Ont. 841-272.
		ONTARIO
—	2	Auto ran into side of train. Licence: Ont. 388-076.
1	—	Pedestrian walked onto crossing in front of train and was struck.
—	1	Auto ran into side of train. Licence: Ont. A-24627.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 325-266.
1	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 829-611.
1	—	Auto stalled on crossing and was struck by train. Licence: Ont. 926-007.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 77900-A.
1	—	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 764-076.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 38902-A.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 53580-C.
1	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. F-32601.
2	—	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 882-659.
1	5	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 257-353.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 48715-A.
1	—	Dump truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 79818-D.

Killed	*Injured*	
—	1	Auto ran into side of train. Licence: Ont. A-89531.
2	—	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. 976-889.
—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Ont. 47024-A.
—	1	Auto drove onto crossing and was struck by R.D.C. car. Licence: Ont. A-27618.
1	—	Auto ran into side of standing train. Licence: Ont. B-38-676.
—	3	Auto ran into side of train. Licence: Ont. 2-246.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Ont. B53-536.
1	—	Pedestrian walked onto crossing in front of train and was struck.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 97-049-A.

MANITOBA

1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. F-91926.

SASKATCHEWAN

—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Sask. 40-158.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-25-530.
—	1	Caterpillar tractor with scraper struck by train on crossing.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Sask. 33-784.

ALBERTA

—	1	Auto truck ran into side of car being pushed over crossing. Licence: Alta. C-82419.
—	1	Auto drove onto crossing in front of approaching train and was struck. Licence: Alta. NE-119.
—	2	Auto drove onto crossing in front of approaching train and was struck. Licence: Alta. BL-774.

BRITISH COLUMBIA

—	1	Auto ran into side of train. Licence: B.C. 218-441.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-87-149.

Of the 43 accidents at highway crossings, 32 occurred at unprotected crossings, and 11 at protected crossings. 26 occurred after sunrise and 17 after sunset.

OTTAWA, Ontario, December 2, 1955.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, OCTOBER, 1955

Railway Accidents	180	Killed	18	Injured	208
Level Crossing Accidents.....	46	Killed	14	Injured	95
Total	226		32		303

	Killed	*Injured*
Passengers	1	92
Employees	5	155
Others	26	56
Total	32	303

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NOVA SCOTIA
—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 7-74-32.
		QUEBEC
1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	51	Automobile stalled on crossing was struck by train causing derailment of train. Licence: Ont. 961-010.
—	2	Auto jeep ran into side of train. Licence: N.B. 21-369.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 115-592.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 388-073.
1	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-36850.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 411-206.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. FA-2094.
		ONTARIO
1	—	Cyclist drove onto crossing in front of approaching train and was struck.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 578-405.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 624-435.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 31581-C.
—	1	Auto truck ran into side of train. Licence: Ont. 23-500-A.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-36-966.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Wisc. B-51-775.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 451-536.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-14-400.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 77038-B.

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 581-233.
—	1	Automobile struck by cars being shoved over crossing. Licence: Ont. B-64-348.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 52-705-C.
—	1	Automobile struck by track motor car. Licence not given.
—	2	Automobile ran into side of train. Licence not given.
1	—	Automobile ran into side of train. Licence: Ont. F-39624.
2	1	Automobile ran into side of RDC unit. Licence: Ont. 280-904.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 15027-B.
—	1	Auto truck ran into side of train. Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 485-492.

MANITOBA

—	1	Automobile struck by car being pushed over crossing. Licence: Man. 88-B-90.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. 87-047.
—	1	Automobile ran into side of train. Licence: Man. 1-N-645.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-85238.

SASKATCHEWAN

1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 6173.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-8-185.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 46487.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-17976.

ALBERTA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Automobile ran into side of train. Licence not given.
—	1	Auto truck skidded into side of train. Licence: Alta. CV-34748.
—	1	Auto truck ran into side of train. Licence: Alta. 144-469.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. 105-685.

BRITISH COLUMBIA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. 70-572.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 194-161.

Of the 46 accidents at highway crossings, 34 occurred at unprotected crossings, and 12 at protected crossings, 26 occurred after sunrise and 20 after sunset.

OTTAWA, Ontario, December 9, 1955.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87386 Nov. 10—In the matter of filing of tariffs by the Bell Telephone Company of Canada.

87387 Nov. 14—Authorizing the Town of Morden, Man., to construct a watermain across the company pipe line of the Interprovincial Pipe Line Company Section 6, Township 3, Range 5, West Principal Meridian, in the Province of Manitoba.

87388 Nov. 14—Authorizing the Town of Bow Island, in the Province of Alberta, to construct the highway across the C.P.R. at mileage 40·4 Taber Subdivision.

87389 Nov. 14—Authorizing the C.P.R. to operate the pile trestle at mileage 37·0 Manitouwadge Lake Branch, Ontario.

87390 Nov. 14—Permitting the removal of slow order at New York Central Railroad Company crossing known as Town Line Road Crossing, Tillsonburg, Ontario.

87391 Nov. 14—In the matter of approval of plan submitted to the C.N.R. by Hugh Gas Limited, showing proposed location of storage tank, etc., at Kindersley, Saskatchewan.

87392 Nov. 14—Authorizing the C.N.R. to construct two dolphins in connection with the car ferry slip in Water Lot "C", Prince Rupert, British Columbia.

87393 Nov. 14—Authorizing the City of Kimberley, British Columbia, to construct Deer Park Avenue across the C.P.R.

87394 Nov. 14—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 15 across the C.N.R. at mileage 109·6 Craik Subdivision.

87395 Nov. 14—Authorizing the construction of an overhead bridge across the C.P.R. at mileage 1·64 Mountain Subdivision *re* Department of Public Works.

87396 Nov. 15—Authorizing the Township of Sandwich East, Ontario, to re-locate Jefferson Boulevard where it crosses the C.N.R. industrial spur leading to the Chrysler plant.

87397 Nov. 15—Approving the abandonment of operation of C.N.R. Nicolet Subdivision, Quebec, between St. Leonard Junction, mileage 0·0, at St. Leonard d'Aston and Nicolet, mileage 14·6.

87398 Nov. 16—Authorizing the C.N.R. to construct a spur track across Dupuy Ave., Winnipeg, Manitoba.

87399 Nov. 16—Authorizing the C.P.R. to operate under the overhead bridge at mileage 3·78 Brooks Subdivision, Alberta.

87400 Nov. 16—Authorizing the Department of Roads of the Province of Quebec, to widen the highway where it crosses the C.N.R. in the Township of Barraute, at mileage 19·8 Amos Subdivision.

87401 Nov. 16—In the matter of approval of plan submitted to The Toronto, Hamilton and Buffalo Railway Company, by Superior Propane Limited, showing proposed location of storage tank, etc., at Smithville, Ontario.

87402 Nov. 16—Dismissal of application of C.N.R. for authority to remove the station agent at Richard, Saskatchewan.

87403 Nov. 16—Requiring the C.N.R. to install certain protection at Highway No. 17 at mileage 46·8 Renfrew Subdivision, Ontario.

87404 Nov. 16—Relieving the C.P.R. from erecting and maintaining certain fencing on the south side of its Lacombe Subdivision, Alberta.

87405 Nov. 16—Relieving the C.P.R. from erecting right-of-way fences between certain mileages on its Broadview Subdivision, Manitoba.

87406 Nov. 16—Relieving the C.P.R. from erecting fences between certain mileages on its Lariviere Subdivision, Manitoba.

87407 Nov. 16—Relieving the C.P.R. from erecting fences between certain mileages on its Leduc Subdivision, Alberta.

87408 Nov. 16—Relieving the C.P.R. from erecting fences between certain mileages on its Coronation Subdivision, Alberta.

87409 Nov. 16—Permitting the removal of slow order at C.P.R. crossing at Highway No. 48 at mileage 94·05 Oshawa Subdivision, Ontario.

87410 Nov. 16—Requiring the C.P.R. to install certain protection at the crossing of Highway No. 48, mileage 85·63 Peterborough Subdivision, Ontario.

87411 Nov. 16—Permitting removal of slow order at C.N.R. crossing, third crossing west of the station at Ailsa Craig, Ontario.

87412 Nov. 16—Permitting the removal of slow order at the London and Port Stanley Railway crossing at Stop No. 4 in Westminster Township, Ontario.

87413 Nov. 17—In the matter of the application of the C.N.R. for an order extending the time within which they were authorized by Order No. 86185, to install automatic protection at the crossing of North Augusta Road, Ontario, mileage 124·63, Cornwall Subdivision.

87414 Nov. 17—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Virden, Manitoba.

87415 Nov. 17—In the matter of approval of plan submitted to the C.N.R. by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc., at Carman, Manitoba.

87416 Nov. 17—Approving proposed location of storage tanks, etc., at Ethelbert, Manitoba. (C.N.R.)

87417 Nov. 17—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Milden, Saskatchewan.

87418 Nov. 17—In the matter of approval of plan submitted to C.N.R. by Lampman Co-Operative Association Limited, showing proposed location of storage tanks at Lampman, Saskatchewan.

87419 Nov. 18—Authorizing the C.N.R. to install signals between Union Station, Winnipeg, and Transcona, on the Minaki Subdivision, and Union Station, Winnipeg and Paddington on the Sprague Subdivision.

87420 Nov. 18—Permitting the removal of slow order at C.N.R. crossing near station at River Beaudette, Quebec.

87421 Nov. 18—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 86248, to install automatic protection at the crossing of the intersection of Perry Street and Aylmer Street, Ontario.

87422 Nov. 18—In the matter of the application of the C.P.R. on behalf of Gibson Petroleum Company Limited, for an order amending Order No. 86577 which granted temporary permission to load crude oil into tank cars from tank trucks at Eckville, Alberta.

87423 Nov. 18—In the matter of approval of plan submitted to the C.N.R. by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc., near Bancroft, Ontario.

87424 Nov. 18—Permitting the removal of slow order at C.P.R. crossing west of the station at Marquette, Manitoba.

87425 Nov. 21—Permitting the removal of slow order at C.P.R. crossing at Red Jacket, Saskatchewan.

87426 Nov. 21—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank, etc., at Calong, Ontario.

87427 Nov. 21—Authorizing the Saskatchewan Department of Agriculture to construct three culverts under the C.N.R. at mileage 39·7 Brooksby Subdivision.

87428 Nov. 21—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing proposed location of storage tanks, etc., at Grandview, Manitoba.

87429 Nov. 21—Authorizing the Saskatchewan Department of Agriculture to construct 3 culverts under the C.N.R. at mileage 36·3 Brooksby Subdivision.

87430 Nov. 21—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Kayville, Saskatchewan.

87431 Nov. 21—Permitting the removal of slow order at C.N.R. crossing at West Magnolia Bridge, Alberta, mileage 61·34 Wabamun Subdivision.

87432 Nov. 21—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Willmar, Saskatchewan.

87433 Nov. 21—Authorizing the C.P.R. to operate over the fill which replaced the bridge at mileage 19·9 Shaunavon Subdivision, Saskatchewan.

87434 Nov. 21—Permitting the removal of slow order at C.N.R. crossing of Highbury Ave., London, Ontario.

87435 Nov. 21—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited, showing proposed location of storage tank, etc., at Plenty, Saskatchewan.

87436 Nov. 22—Authorizing the C.N.R. to reconstruct the bridge over the St. Louis River, Quebec.

87437 Nov. 22—Permitting the removal of slow order at C.N.R. crossing of Highway No. 23, near station at Mount Albert, Ontario.

87438 Nov. 22—Permitting the removal of slow order at C.P.R. crossing near station at St. Martin Junction, Quebec.

87439 Nov. 22—Approving the location and details of C.P.R. station building at Altona, Manitoba.

87440 Nov. 22—Authorizing the Rural Municipality of St. Clements, Manitoba, to construct the highway across the C.P.R. at mileage 51·52, Lac du Bonnet Subdivision.

87441 Nov. 22—In the matter of approval of plan submitted to the C.N.R. by Canadian Propane (Manitoba) Limited, showing proposed location of storage tank, etc., at Dauphin, Manitoba.

87442 Nov. 22—In the matter of Order No. 80389, approving plan submitted to the C.N.R. by Maritime Pressed Metal Company Limited, showing proposed location of storage tank, etc., at Moncton, New Brunswick.

87443 Nov. 22—Permitting the removal of slow order at the Chesapeake and Ohio Railway Company crossing at Park Avenue, Chatham, Ontario.

87444 Nov. 23—In the matter of the application of the Chesapeake and Ohio Railway Company, for an order authorizing operation of engines, cars and trains over the New York Central Railroad Company at Tecumseh Road, Windsor, Ontario.

87445 Nov. 23—Authorizing the C.P.R. to remove the station agent at Tees, Alberta.

87446 Nov. 23—Approving Supplement between the Bell Telephone Company of Canada, and the Clarenceville and St. Thomas Telephone Company.

87447 Nov. 23—Authorizing the Township of Nelson, Ontario, to construct a 21 inch concrete sewer pipe under the company pipe line of the Trans Northern Pipe Line Company, in the Township of Nelson, Ontario.

87448 Nov. 23—Permitting the removal of slow order at C.N.R. crossing at Highway No. 46, Kirkfield, Ontario, mileage 23·76, Coboconk Subdivision.

87449 Nov. 23—Authorizing the C.N.R. to operate under the overhead bridge at Glenridge Ave., St. Catharines, Ontario.

87450 Nov. 23—Authorizing the Inter-Urban Area of Burlington-Nelson, Burlington, Ontario, to construct a watermain under the company pipe line of the Trans Northern Pipe Line Company between Lots 15 and 16, Concession 4, Township of Nelson, Ontario.

87451 Nov. 23—Authorizing the Inter-Urban Area of Burlington-Nelson, Burlington, Ontario, to construct a watermain under the Trans Northern Pipe Line Company in the Township of Nelson. Ontario.

87452 Nov. 24—Authorizing the C.N.R. to extend their passing track across the north-south road allowances between sections 10 and 11, Township 27A, Range 14, West Second Meridian, Saskatchewan.

87453 Nov. 24—Authorizing the C.P.R. to construct a siding across First Street, Beausejour, Manitoba.

87454 Nov. 24—Authorizing the Township of Goderich, Ontario, to improve the sight lines at the crossing of the C.N.R. Huron Road Concession, mileage 35·61.

87455 Nov. 24—Authorizing the Town of Mount Royal, Quebec, to construct Devonshire Road across the C.P.R.

87456 Nov. 24—Permitting the removal of slow order at C.N.R. crossing at mileage 33·65 Kashabowie Subdivision, Ontario.

87457 Nov. 24—Permitting the removal of slow order at C.N.R. crossing of the east switch to Barlow Junction yard, Alberta.

87458 Nov. 24—Permitting the removal of slow order at C.P.R. crossing and Jermyne Avenue, Penticton, British Columbia.

87459 Nov. 24—In the matter of the application of the C.N.R. for an order amending Order No. 85810, which authorized the construction of a branch line of railway in the Parish of St. James, Manitoba.

87460 Nov. 24—Requiring the New York Central Railroad Company to make necessary changes in the existing protection at the crossing of Highway No. 3 at mileage 40·95, Canada Division, Ontario.

87461 Nov. 24—In the matter of the application of the Great Northern Railway Company for an order extending the time within which it was required by Order No. 85939, to install automatic protection at the crossing of Brunette Street, New Westminster, British Columbia.

87462 Nov. 24—In the matter of the application of the C.N.R. for an order extending the time limit within which they were authorized to take possession of tracks and facilities of National Harbours Board, Great Northern Railway Company, C.P.R., The Burrard Inlet Tunnel and Bridge Company and the Pacific Great Eastern Railway Company.

87463 Nov. 24—Authorizing the Canadian Northern Railway Company to construct a branch line between Ellice Avenue and Barry Avenue, Parish of St. James, Manitoba.

87464 Nov. 24—In the matter of the application of the C.N.R. for an order amending Order No. 85801, which authorized the construction of a branch line in the Parish of St. James, Manitoba.

87465 Nov. 24—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 3, mileage 44·7 Cayuga Subdivision, Ontario.

87466 Nov. 24—In the matter of approval of plan submitted to the C.N.R. by Canadian Propane (Ontario) Limited, showing proposed location of storage tanks, etc. at Fort William, Ontario.

87467 Nov. 24—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

87468 Nov. 24—Authorizing the C.P.R. to install a timber flanking span, at the south end of the bridge at mileage 7·6 Kimberley Subdivision, British Columbia.

87469 Nov. 24—In the matter of the application of the Ontario Department of Highways for an order amending Order No. 74517, which directed the C.N.R. to install certain protection at Eglinton Avenue, near Scarboro Junction Station, Ontario.

87470 Nov. 24—In the matter of the application of the C.P.R. for an order extending the time within which it was required by Order No. 86250, to install automatic protection at the crossing of Highway No. 3 at mileage 16·93 Port Burwell Subdivision, Ontario.

87471 Nov. 24—Authorizing the Toronto Harbour Commissioners to construct sidings to serve A. R. Clark and Company Limited north of Keating Street, Toronto, Ontario.

87472 Nov. 25—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 8.

87473 Nov. 25—In the matter of the application of the C.P.R. on behalf of New Superior Oil of Canada Limited for extension of temporary permit to load crude oil into tank cars from tank trucks near Ullin, Alberta.

87474 Nov. 25—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of pipe lines, etc. at Val d'Or, Quebec.

87475 Nov. 25—Permitting the removal of slow order at C.P.R. crossing at mileage 104·6 Sutherland Subdivision, Saskatchewan.

87476 Nov. 25—Permitting the removal of slow order at C.P.R. crossing of Highway No. 27 north of the station at Olds, Alberta.

87477 Nov. 25—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing proposed location of storage tanks, etc. at Chatham, New Brunswick.

87478 Nov. 25—In the matter of approval of plans submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Rimouski, Quebec.

87479 Nov. 28—Dismissing the application of the C.N.R. to remove the station agent at Newburgh, Ontario.

87480 Nov. 28—In the matter of the application of the C.P.R. for approval of plan showing material substitutions in the steel work of the span under construction adjacent to the existing James Street subway, Fort William, Ontario.

87481 Nov. 28—Permitting the removal of slow order at C.N.R. crossing near station at Fort Frances, Ontario.

87482 Nov. 28—Permitting the removal of slow order at C.N.R. crossing at mileage 4·51 Campbellford Subdivision, Ontario.

87483 Nov. 28—Permitting the removal of slow order at the Esquimalt and Nanaimo Railway Company crossing of South Shore Road, British Columbia.

87484 Nov. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks at Carman, Manitoba.

87485 Nov. 28—In the matter of Order of the Board No. 87365 to remove the speed limitation at the crossing of the C.N.R. and Highway No. 1, near Regina, Saskatchewan.

87486 Nov. 28—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks at Fannystelle, Manitoba.

87487 Nov. 28—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.

87488 Nov. 28—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 4 to Canadian Freight Classification No. 20.

87489 Nov. 28—Permitting the removal of slow order at C.N.R. crossing of Sir Wilfrid Laurier Boulevard, St. Lambert, Quebec.

87490 Nov. 28—Permitting the removal of slow order at Sydney and Louisburg Railway Company crossing and Wallace Road, Glace Bay, Nova Scotia.

87491 Nov. 28—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Stephenville Crossing, Newfoundland.

87492 Nov. 28—Permitting the removal of slow order at C.N.R. crossing and Maple Avenue at Ville St. Pierre, Quebec.

87493 Nov. 29—Authorizing the British Columbia Department of Highways to construct the highway across the C.P.R. at mileage 21·42 Okanagan Subdivision, British Columbia.

87494 Nov. 29—In the matter of the application of the C.N.R. for an order amending Order No. 86901, which authorized the widening of Concession Road where it crosses the railway in Concession 1, Lot 5, Town of Preston, Ontario.

87495 Nov. 29—In the matter of the application of the Ontario Department of Highways for an order amending Order No. 55482, which authorized the C.N.R. to install automatic protection at Eglinton Avenue, near Scarboro, Ontario.

87496 Nov. 29—Authorizing the C.N.R. to operate under the overhead bridge at mileage 171·03 Gananoque Subdivision, Ontario.

87497 Nov. 29—Authorizing the C.N.R. to remove the station building at Renfrew Junction, Ontario.

87498 Nov. 29—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Petitcodiac, New Brunswick.

87499 Nov. 29—Permitting the removal of slow order at C.N.R. crossing north of the station at Pefferlaw, Ontario.

87500 Nov. 29—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87501 Nov. 29—In the matter of Order No. 87371, approving plan submitted to the Quebec Central Railway Company by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc. at Sherbrooke, Quebec.

87502 Nov. 29—Approving plan showing signalling layout for the junction of the Armagh and Bridge Subdivisions at Joffre, main line around Joffre Yard and junction of Diamond and Armagh Subdivisions, Quebec Central Railroad Company, etc. at Walsh, Quebec.

87503 Nov. 29—Permitting the removal of slow order at C.P.R. crossing and Main Street, Chalk River, Ontario.

87504 Nov. 29—Permitting the removal of slow order at C.N.R. crossing and High way No. 41 east of the station at Elk Point, Alberta.

87505 Nov. 29—Permitting the removal of slow order at C.P.R. crossing at mileage 68·78 Wynyard Subdivision, Saskatchewan.

87506 Nov. 29—Extending the time within which certain protection is to be installed at the crossing of Lindsay Road, Turnerville, Ontario, by the Chesapeake and Ohio Railway Company.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1956.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, JANUARY 15, 1956 No. 20

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SUMMARY OF ORDERS ISSUED BY THE BOARD

87507 Nov. 30—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under Section 3.

87508 Nov. 30—Permitting removal of slow order at C.P.R. crossing of Holland Avenue, Ottawa, Ontario.

87509 Nov. 30—Authorizing the C.P.R. to replace the existing timber trestle with a girder span at mileage 75·8 Crownsnest Subdivision, Alberta.

87510 Nov. 30—Authorizing the Municipality of Metropolitan Toronto, Ontario, to widen the Queensway Road where it crosses the C.P.R. in the Township of Etobicoke, Ontario.

87511 Dec. 1—In the matter of application of the C.P.R. for an order amending Order No. 87139 which exempted it from erecting fencing between certain mileages on its Wetaskiwin Subdivision, Alberta.

87512 Dec. 1—Permitting removal of slow order at C.P.R. crossing of Montee St. Jean, being first crossing east of Cedar Park Station, Pointe Claire, Quebec.

87513 Dec. 1—Authorizing the C.N.R. to construct a siding to serve the Commonwealth Construction Company Limited, at Stead, Manitoba.

87514 Dec. 1—In the matter of application of C.N.R. for an order extending the time within which they were required by Order No. 86369 to install certain protection at the crossing of Bethune Street, Peterborough, Ontario.

87515 Dec. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Dundurn, Saskatchewan.

87516 Dec. 1—Permitting removal of slow order at C.P.R. crossing at mileage 31·78, Shamrock Subdivision.

87517 Dec. 1—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87518 Dec. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Kelowna, British Columbia.

87519 Dec. 1—In the matter of approval of plan submitted by the C.N.R., showing proposed location of storage tanks, etc. at West Toronto, Ontario.

87520 Dec. 1—Approving plan submitted by the C.P.R. showing proposed station and platform to be erected at Brucy, Quebec.

64746

87521 Dec. 1—In the matter of approval of plan submitted to the C.N.R. by Shell Oil Company of Canada Limited, showing proposed location of storage tanks, etc. at Valleyfield, Quebec.

87522 Dec. 1—In the matter of approval of plan submitted to the Northern Alberta Railway Company by Imperial Oil Limited showing proposed location of proposed building at Fawcett, Alberta.

87523 Dec. 1—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Company Limited, showing proposed location of storage tanks, etc. at Vegreville, Alberta.

87524 Dec. 1—Approving operation of C.P.R. trains over private sidings to serve the Abitibi Power & Paper Company Limited, Sturgeon Falls, Ontario.

87525 Dec. 2—In the matter of approval of plan submitted to the British Yukon Railway Company, showing proposed location of storage tanks at Whitehorse, Yukon Territory.

87526 Dec. 2—In the matter of Order No. 87105 which authorized the removal of speed restriction at C.P.R. crossing at Midway, British Columbia.

87527 Dec. 2—Authorizing the C.N.R. to use the bridge over Bolcen Creek, mileage 47·1, Okanagan Subdivision, British Columbia.

87528 Dec. 2—Permitting removal of slow order at C.N.R. crossing at mileage 31·7 Grimsby Subdivision, Ontario.

87529 Dec. 2—Dismissing application of the C.N.R. for authority to remove station agent at Elgin, Manitoba.

87530 Dec. 2—In the matter of application of the C.P.R. for approval of plan showing protection as installed at the crossing of Martindale Road, mileage 1·56 Webbwood Subdivision, Ontario.

87531 Dec. 2—Approving revised appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Corporation de Téléphone de Québec.

87532 Dec. 5—Authorizing the Ontario Department of Highways to construct an overhead bridge over the C.N.R. at mileage 0·64, Milton Subdivision, Ontario.

87533 Dec. 5—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tank at Roblin, Manitoba.

87534 Dec. 5—Authorizing the Ontario Department of Highways to construct an overhead bridge across the C.N.R. at mileage 0·61, Milton Subdivision, Ontario.

87535 Dec. 5—Authorizing the C.P.R. to construct a siding across Gaylord Road, St. Thomas Subdivision, Ontario.

87536 Dec. 5—Authorizing the Corporation of Ste. Elizabeth, Quebec, to widen La Chaloupe Road where it crosses the C.N.R. at mileage 95·70 Grand'Mere, Quebec.

87537 Dec. 5—In the matter of approval of plan submitted by the C.N.R. on behalf of Dome Exploration (Western) Limited, showing location of facilities for the loading of crude oil from tank trucks to tank cars at Chinook, Alberta.

87538 Dec. 5—Requiring the Northern Alberta Railway Company to install certain protection at the crossing of Highway No. 2 at Morinville, Alberta.

87539 Dec. 5—Permitting removal of slow order at C.N.R. crossing at East Selkirk, Manitoba.

87540 Dec. 5—Permitting removal of slow order at C.N.R. crossing at mileage 62·55, Neepawa Subdivision, Manitoba.

87541 Dec. 5—Permitting removal of slow order at C.P.R. crossing near Castlegar, British Columbia.

87542 Dec. 5—Permitting removal of slow order at C.P.R. crossing of Pottery Road, in Metropolitan Toronto, Ontario.

87543 Dec. 5—Permitting removal of slow order at C.P.R. crossing at Loni Beach, Manitoba.

87544 Dec. 6—Approving proposed location of storage tanks, etc. of Imperial Oil Limited near C.N.R. tracks at Fiske, Saskatchewan.

87545 Dec. 6—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Balgonie, Saskatchewan.

87546 Dec. 6—In the matter of approval of plan submitted to the C.N.R. by Northern Star Oil Limited and Ontario Shore Gas Company Limited, showing location of storage tanks at St. Boniface, Manitoba.

87547 Dec. 6—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of pipe lines at Senneterre, Quebec.

87548 Dec. 6—Permitting removal of slow order at C.N.R. crossing east of siding switch at Rivers, Manitoba.

87549 Dec. 6—Authorizing the Grand Trunk Pacific Railway Company to construct a branch line of railway in the city of Edmonton, Alberta.

87550 Dec. 7—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

87551 Dec. 7—In the matter of installation of protection at C.P.R.-C.N.R. interchange track at Dundas Street, London, Ontario.

87552 Dec. 7—Authorizing the construction of a temporary overpass across the C.P.R. at mileage 1·34 MacTier Subdivision and the C.N.R. at mileage 6·12, Brampton Subdivision, Ontario.

87553 Dec. 7—In the matter of approval of plan submitted to the C.N.R. by Husky Oil and Refining Limited, showing proposed location of storage tanks, etc. at Savant Lake, Ontario.

87554 Dec. 8—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing proposed location of storage tanks, etc. at Goodeve, Saskatchewan.

87555 Dec. 8—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of storage tanks, etc. at Hodgeville, Saskatchewan.

87556 Dec. 8—Authorizing the C.P.R. to operate over the culvert pipes and fill at mileage 84·1 Neudorf Subdivision, Manitoba.

87557 Dec. 8—Authorizing the C.P.R. to operate over the culvert at mileage 131·5 Carberry Subdivision, Manitoba.

87558 Dec. 8—Authorizing the C.P.R. to operate over the culvert at mileage 21·0 Fife Lake Subdivision, Saskatchewan.

87559 Dec. 9—Authorizing the Ontario Department of Highways to construct Highway No. 401 across the C.N.R. by means of an overhead bridge at mileage 127·95 Gananoque Subdivision, Ontario.

87560 Dec. 9—Authorizing the Alberta Department of Highways to widen Highway No. 36 where it crosses the C.N.R. at mileage 44·68, Vegreville Subdivision, Alberta.

87561 Dec. 9—Authorizing the C.P.R. to operate over the culverts mileage 14·3, Minnedosa Subdivision, Manitoba.

87562 Dec. 9—In the matter of approval of the Supplement No. 1 to Service Station Contract between the Bell Telephone Company of Canada and Canadian Refractories Limited.

87563 Dec. 9—Authorizing the C.P.R. to operate over the culvert at mileage 0·6, Colony Subdivision, Saskatchewan.

87564 Dec. 9—Authorizing the C.P.R. to operate over the culvert at mileage 86·6, Napinka Subdivision, British Columbia.

87565 Dec. 9—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Madawaska Valley Telephone Company Limited.

87566 Dec. 9—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the People's Telegraph and Telephone Company Limited.

87567 Dec. 9—In the matter of approval of plan submitted to the C.N.R. by the Canadian Petrofina Limited showing proposed location of storage tanks, etc., at Cannifton, Ontario.

87568 Dec. 9—Permitting the removal of slow order at C.N.R. crossing north of station at Cantic, Quebec.

87569 Dec. 9—Authorizing the Township of Toronto to construct a service road across the pipe line of the Trans-Northern Pipe Line Company between Highway No. 10 and the Queen Elizabeth Highway, Township of Toronto, Ontario.

87570 Dec. 9—Permitting the removal of slow order at C.N.R. crossing north of station at St. Valentin, Quebec.

87571 Dec. 9—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited showing proposed location of storage tanks, etc., at Hamilton, Ontario.

87572 Dec. 9—Authorizing the C.N.R. to reconstruct the bridge over the Souris River, Saskatchewan.

87573 Dec. 9—Permitting the removal of slow order at C.N.R. crossing and St. Clair Avenue mileage 325·18 Oshawa Subdivision, Ontario.

87574 Dec. 9—Authorizing the C.N.R. to make changes to the interlocker at the crossing of their railway and the railway of the C.P.R. at mileage 33·29 Qu'Appelle Subdivision (C.N.R.) and mileage 25·7 Bulyea Subdivision (C.P.R.).

87575 Dec. 9—Permitting the removal of slow order at C.P.R. crossing at Broadway Street near station in the City of Yorkton. Saskatchewan.

87576 Dec. 9—Dismissing the application of the C.N.R. for authority to remove the station agent at Parkman, Saskatchewan.

87577 Dec. 9—Authorizing the City of Guelph, Ontario, to relocate and widen Stevenson Street where it crosses the C.P.R.

87578 Dec. 9—In the matter of approval of plan submitted to the C.N.R. by Stewart Petroleums Limited showing proposed site of loading liquefied petroleum gas from tank trucks into tank cars at Acheson, Alberta.

87579 Dec. 9—Declaring the Municipality of Woodbridge, Ontario, to be an urban municipality within the meaning of subsection 2 of section 311 of the Railway Act.

87580 Dec. 9—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocker at the crossing of their railways at Dodsland, Saskatchewan.

87581 Dec. 12—Approving plan showing the location of Westcoast Transmission Company Limited pipe line within the Yale and Kamloops Division of the Yale District, British Columbia.

87582 Dec. 12—Approving plan showing location of Westcoast Transmission Company Limited pipe line within the Yale Division of the Yale District, British Columbia.

87583 Dec. 12—Permitting the removal of slow order at C.P.R. crossing near Willingdon siding and Highway No. 45, Alberta.

87584 Dec. 12—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at St. Quentin, New Brunswick.

87585 Dec. 12—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tank at Zealandia, Saskatchewan.

87586 Dec. 12—Permitting the removal of slow order at the Northern Alberta Railways Company crossing east of station Canyon Creek, Alberta.

87587 Dec. 12—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Harris, Saskatchewan.

87588 Dec. 12—Authorizing the C.N.R. to remove the station at Lake Joseph, Ontario, mileage 1·29 Bala Subdivision.

87589 Dec. 12—In the matter of changes in rate grouping of the British Columbia Telephone Company.

87590 Dec. 12—Authorizing the C.P.R. to operate its trains over the subway at Jarry Street, Montreal, Quebec.

87591 Dec. 12—Authorizing the C.P.R. to operate its trains over the subway at Cavendish Boulevard, Montreal, Quebec.

87592 Dec. 12—Authorizing Saskatchewan Department of Agriculture to lay two 36-inch iron pipes under the C.N.R. at mileage 42·4 Brooksby Subdivision, Saskatchewan.

87593 Dec. 12—Approving the operation of C.P.R. trains, etc., over the extension of its elevator track at Virden, Manitoba.

87594 Dec. 12—Relieving the C.P.R. from erecting fences at its right-of-way between mileage 51·18 and mileage 60·62 at McMorran Subdivision, Sask.

87595 Dec. 12—Authorizing the C.N.R. to operate over the ferry slip on Okanagan Lake at Westbank, British Columbia.

87596 Dec. 12—Approving under the Maritime Freight Rates Act tariffs and supplements to tariffs filed under section 8.

87597 Dec. 12—Dismissing application of the C.N.R. for authority to remove the station agent at Truax, Saskatchewan, mileage 43·1 Avonlea Subdivision.

87598 Dec. 13—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone over certain public highways in the County of Kent, Ontario.

87599 Dec. 13—Approving plan showing location of Westspur Pipe Line Company gathering lines in the Steelman area in the Rural Municipality of Browning No. 34, Saskatchewan.

87600 Dec. 13—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Eden, Manitoba.

87601 Dec. 13—Permitting the removal of slow order at C.N.R. crossing at Ridge Road, Huntingdon, Quebec.

87602 Dec. 13—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks at Letellier, Manitoba.

87603 Dec. 13—In the matter of approval of plan submitted to the C.N.R. showing proposed location of storage tanks at Sioux Lookout, Ontario, by Imperial Oil Limited.

87604 Dec. 13—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Rainy River, Ontario.

87605 Dec. 13—In the matter of approval of plan submitted to the C.P.R. by McColl-Frontenac Oil Co., showing proposed location of storage tanks, etc., at Dryden, Ontario.

87606 Dec. 13—Approving plan showing location of Westspur Pipe Line Company trunk pipe line from Cromer, Manitoba, to boundary line between provinces of Manitoba and Saskatchewan.

87607 Dec. 13—Approving traffic agreement between The Bell Telephone Company of Canada and M. L. Davis, proprietor of the Davis Telephone System.

87608 Dec. 13—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along public highway in the Township of Harwich, Ontario.

87609 Dec. 13—Authorizing The Bell Telephone Company of Canada to construct its lines of telephone along public highway in the Township of Chatham, County of Kent, Ontario.

87610 Dec. 13—Approving plan showing crossing protection at Ottawa Street subway, Hamilton, Ontario.

87611 Dec. 14—Permitting the removal of slow order at C.P.R. crossing west of Park Avenue Station, Montreal, Quebec.

87612 Dec. 14—In the matter of the application of the City of Ottawa, Ontario, for installation of electric traffic control signals at intersection of Parkdale Avenue and Scott Street.

87613 Dec. 14—Requiring the C.N.R. to install certain protection at the crossing of highway and the C.N.R. at St. Jean Chrysostome, Quebec.

87614 Dec. 14—In the matter of approval of plan submitted to the Northern Alberta Railways Company by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Newbrook, Alberta.

87615 Dec. 15—In the matter of approval of plan submitted to the C.P.R. by Royalite Hi-Ways Limited, showing proposed location of pipe lines, etc., at Saskatoon, Saskatchewan.

87616 Dec. 15—In the matter of the application of Union Oil Company of California for an order extending the time within which it was granted permission, by Order No. 84998, to load crude oil into tank cars from tank trucks at Hays, Alberta.

87617 Dec. 15—Authorizing the Department of Highways, Ontario, to relocate Highway No. 46 at C.N.R. crossing in the Township of Eldon, Ontario.

87618 Dec. 15—Approving under the Maritime Freight Rates Act, tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company.

87619 Dec. 15—In the matter of approval of plan submitted to the Northern Alberta Railways Company, by Mannix Limited showing proposed location of storage tanks, etc., at Anzac, Alberta.

87620 Dec. 15—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank, etc., at Loreburn, Saskatchewan.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1956.

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The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLV OTTAWA, FEBRUARY 1, 1956 No. 21

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Authorized as Second Class Mail, Post Office Department, Ottawa.

In the matter of the application of The Railway Association of Canada on behalf of its member companies for an Order authorizing the publication of a scale of local milage rates and rates related thereto on grain and grain products within Western Canada as set out in Appendix "B" attached to the application.

File No. 46921

In the matter of the General Freight Rates Investigation directed by Order in Council P.C. 1487, dated April 7, 1948, (Equalization Case) Part 2—Commodity Mileage Scales—Grain and Grain Products (Scale No. 7), and the approximate increase of 10% proposed in the Board's Judgment dated August 31, 1955.

File No. 47828·3

In the matter of the complaints of the City of Vancouver and the Corporation of the District of Surrey, Cloverdale, B.C., respecting the rates on Grain and Grain Products from the Prairie Provinces to British Columbia for domestic consumption, versus the rates eastbound to Port Arthur and Fort William, Ont.

File No. 24271·9

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
Mr. F. M. MACPHERSON, *Commissioner.*
Mr. L. J. KNOWLES, *Commissioner.*

JUDGMENT

KEARNEY, J., Chief Commissioner:

A hearing in respect of the said matters was held at Ottawa on November 21 and 22, 1955, and as a result of submissions made thereat by interested parties the hearing in respect of the said matters was adjourned until February 7, 1956, at Vancouver, B.C.

65562—1

Consequently the proposed increase of approximately 10 per cent in local grain mileage rates within Western Canada above mentioned and more particularly set forth in our said judgment of August 31, 1955, will not become effective on January 1, 1956, but will remain subject to further consideration and determination by the Board. Mr. Commissioner Knowles, who is presently absent from Ottawa, concurs.

JOHN D. KEARNEY,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

OTTAWA, December 19, 1955.

I concur:

F. M. MACPHERSON.

GENERAL ORDER No. 817

In the matter of the Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, including Specifications for shipping containers:

File No. 1717·88·81

MONDAY, the 21st day of November, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon the recommendation of the Director of Operation of the Board—

It is ordered that the said Regulations be, and they are hereby, amended as follows:

(1) Add specification 12H as an additional fibreboard box in section 73·63, page 36 of Tariff, and page 12 of Supplement No. 3, and page 4 of Supplement No. 4, subparagraph (*a*)(2), paragraph (*b*), subparagraphs (*c*)(1), (*c*)(2), (*d*)(2) and (*e*)(2).

(2) Add Specification 12H as an additional fibreboard box in section 73·64, page 37 of Tariff, subparagraph (*a*)(2).

(3) Add Specification 12H as an additional fibreboard box in section 73·65, page 37 of Tariff and page 13 of Supplement No. 3, subparagraphs (*a*)(2) and (*h*)(2).

(4) Add Specification 12H as an additional fibreboard box in section 73·66, page 13 of Supplement No. 3 and page 4 of Supplement No. 4, subparagraphs (*d*)(1), (*e*)(1) and (*g*)(1).

(5) Add Specification 12H as an additional fibreboard box in section 73·67, page 13 of Supplement No. 3, subparagraph (*a*)(1).

(6) Add Specification 12H as an additional fibreboard box in section 73·68, page 38 of Tariff, subparagraph (*a*)(1).

(7) Add Specification 12H to page 211 of Tariff, as follows:

Specification 12H

FIBREBOARD BOXES

1. Compliance. (*a*) Required in all details.

2. Definitions. (a) Terms such as "200-pound test" mean minimum strength, Mullen or Cady test.

(*b*) "Joints" are where edges of parts of box are connected together in setting up the box. Generally done by boxmaker.

(*c*) "Seams" are where edges of parts of box are visible, except joints, when box is closed.

3. Classification of board. (a) Fibreboard is hereby classified by strength[1] of completed board as in first column of the following table; weights specified in the table are the minimum authorized.

Classified strength[1] of completed board	Facings for corrugated fibreboard	
	Double-faced Minimum combined weight of facings (pounds per 1,000 sq. ft.)	Double-wall—Minimum combined weight of facings including center liner (pounds per 1,000 sq. ft.)
175	75	...
200	84	92
275	138	110
325	138	110
350	180	126
375	180	180
400	180	180
450	180	180

[1] Mullen or Cady test (minimum).

4. Corrugated fibreboard. (a) Both outer facings water resistant; corrugated sheets must be at least 0·009 inch thick and weigh not less than 26 pounds per 1,000 square feet; all parts must be securely glued together throughout all contact areas.

5. Stitching staples. (a) Of steel wire, copper-coated or equivalent in non-sparking quality, at least $\frac{3}{32}$″ x 0·019″, or equal cross section formed into staples about $\frac{7}{16}$″ wide.

6. Tape. (a) Used for manufacturers' joints must be coated with glue at least equal to No. 1-3/4 Peter Cooper standard. Cloth tape of strength, across the woof, at least 70 units, Elmendorf test. Sisal tape of 2 sheets of No. 1 Kraft paper, total weight 80 pounds per ream (500 sheets, 24″ x 36″); sheets to be combined with asphalt and reinforced by unspun sisal fibers completely embedded in the asphalt and extending across the tape.

7. Test. (a) Acceptable board must have prescribed strength, Mullen or Cady test, after exposure for at least 3 hours to normal atmospheric conditions (50 to 70 per cent relative humidity), under test as follows:

(1) Clamp board firmly in machine and turn wheel thereof at constant speed of approximately 2 revolutions per second.

(2) Six punctures required, 3 from each side; all results but one must show prescribed strength.

(3) Board failing may be retested by making 24 punctures, 12 from each side; when all results but 4 show prescribed strength, the board is acceptable.

(4) For corrugated fibreboard, double-pop tests may be disregarded.

8. Type authorized. (a) Shall be of corrugated fibreboard, telescoping type, 1-piece or 3-piece construction without recessed heads, as follows:

(1) Box to consist of top and bottom sections divided equally or unequally and inner lining tube. The lining tube must be staple stitched to the lower section of the box to give in effect a 2-piece box. (See para. 11).

(2) Box to consist of full depth top and bottom sections completely telescoping. No inner lining tube required. Two variations are authorized, one with bottom slotted on ends and cover on sides, second, with both cover and bottom slotted on sides.

(3) Box to consist of 1-piece or 3-piece, without recessed heads, fitted with lining tube as prescribed in para. 11. Flaps must butt or have full overlap excepting that inner flaps may overlap ½ inch.

9. Forming. (a) Parts must be cut true to size and so creased and slotted as to fit closely into position without cracking, surface breaks, separation of parts outside of crease, or undue binding.

10. Joints. (a) Lapped 1½″ and stitched at 2½″ intervals and within 1″ of each end of joint; body joints must be double-stitched (2 parallel rows of stitches).

(b) For glued lap joint, the sides of box forming joint must lap not less than 1¼″ and be firmly glued throughout entire area of contact with a glue or adhesive which cannot be dissolved in water after the film application has dried.

(c) For lining tubes only, one butt joint taped (see para. 6) tape not less than 3″ wide is authorized.

11. Authorized gross weight and parts required. (a) Box shall be corrugated fibreboard at least 275-pound test. Tubes, when required, shall be of solid fibreboard at least 200-pound test, or of corrugated fibreboard of at least 275-pound test, with adjoining edges stitched, taped, or glued.

(b) Authorized gross weight: 65 pounds.

12. Closing for shipment. (a) The cover of telescoping type boxes shall be secured to the bottom by application of single strips of tape, not less than 1½″ wide, to the sides and in a vertical manner; two strips, one on each side for containers 18″ in length or under; four strips, two on each side, minimum for containers over 18″ in length. On boxes with divided covers the taping shall start within 1″ of the top-side score and extend to within 1″ of the side-bottom score and in no case shall the strips be less than 4″ in length. On boxes with full depth covers the tape shall be at least 4″ in length disposed equally on side and bottom.

(1) Tape used for closing must be pressure sensitive, filament reinforced. Tape backing shall have a minimum longitudinal tensile strength of 160 pounds per inch of width and a minimum elongation of 12 per cent at break. The tape shall have sufficient transverse strength to prevent raveling or separation of the filaments. Tape shall have an adhesion of 18 ounces per inch of width minimum when tested according to acceptable methods. Tape shall adhere immediately and firmly to fibreboard surface when applied with hand pressure in the temperature range of 0° to 120° F. No solvent or heat shall be necessary to activate the adhesive. The tape must be manufactured of material which will not delaminate or separate when submerged in water for 72 hours and which will not show any delamination or bleeding up to 160° F. and which will not lose its strength, delaminate or become brittle at 0° F.

(2) Water activated tapes are authorized when approved by the Bureau of Explosives.

(3) Other tape equal in efficiency and capable of withstanding drop and drum tests prescribed in para. 16 are authorized.

(b) For 1-piece or 3-piece type boxes as prescribed in para. 8(a)(3) by coating with adhesive at least 50 per cent of the entire contact surface of the closing flaps or by one of the following methods:

(1) By stitching at 2½″ intervals along all seams (one 5″ space allowed when necessary to permit use of stitching device).

(2) By not less than three strips of paper tape having a minimum width of 2″. Paper tape must be coated with glue, be of 2 sheets Kraft paper laminated with asphaltic or resin combined with synthetic, glass, or natural fibers satisfactorily dispersed therein, and at least equal to that prescribed in para. 6(a). One strip to be applied approximately equal distance across the top face of box over the seam, formed by abutting or overlapping outer flaps and extended onto the side panels a minimum distance of 1″ beyond the top score line. The two other strips shall be placed parallel and approximately equal distance over the joint formed by the top flaps and the side; each strip shall cover a minimum of 30 per cent of the center part of this joint.

(c) In addition to the method prescribed in para. (a), boxes authorized by para. 8(a)(1) may be closed by securing the upper and lower sections of the container together by application of one single strip of tape not less than 1″ wide, exclusive of manufacturer's joint, disposed entirely around the perimeter of the container and spaced approximately equally distant over each portion of the container at the seam of abutting covers. The ends of the tape around the perimeter of the container must overlap 1½″ minimum. The tape shall be pressure sensitive, paper backed. The basic weight of the paper shall be not less than 70 pounds per ream after sizing and coating. Longitudinal tensile strength shall be not less than 50 pounds per inch of width and the latitudinal strength shall be not less than 11 pounds per inch of width.

13. Marking. (a) On each container. Symbol in rectangle as follows:

| BTC—12H** |

(1) Stars to be replaced by authorized gross weight (for example B.T.C.—12H65). This mark shall be understood to certify that the container complies with all specification requirements.

(2) Name and address of plant making the container; symbol (letters) authorized if recorded with the Bureau of Explosives. This mark to be located just above or below the mark specified in paragraph (a) of this section.

(3) Size of markings. At least ½" high.

14. Special tests. (a) By whom and when. By or for each plant making the boxes; at beginning of manufacture and at six-month intervals thereafter; on largest size, by weight, above and below 35 pounds gross. Report of results, with all pertinent data, to be maintained on file for one year; copy to be filed with the Bureau of Explosives.

15. Material. (a) Box material must comply with requirements of paras. 3, 4, 7, 11 and the following:

(b) Box material must test strength and moisture content not over 30 per cent as follows:

(1) Box material must test at least 200 pounds per square inch immediately after exposure for 3 days to 90 per cent relative humidity of not less than 70° nor more than 75° F.

(2) Box material must test at least 100 pounds per square inch immediately after it has been in contact with water for 3 hours under 3" head at not less than 70° nor more than 75° F.

16. Completed container. (a) Samples must pass the following immediately after exposure for 2 weeks to 90 per cent relative humidity at not less than 70° F. nor more than 75° F.; loaded containers shall contain dummy contents of shape and weight of the expected contents, and shall be closed in the same manner as for shipment:

(1) Three loaded samples to be tested. Each must withstand 200 drops in standard 7-foot revolving test drum with pointed hazard in place, without spilling any contents.

(2) Three loaded samples to be tested. Each must withstand end to end pressure of at least 500 pounds without deflection of over 1½".

(3) Three empty samples to be tested. Each must withstand top to bottom pressure of at least 500 pounds without deflection of ½".

HUGH WARDROPE,
Assistant Chief Commissioner,

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, NOVEMBER, 1955

Railway Accidents	220	Killed	9	Injured	237
Level Crossing Accidents.....	51	Killed	14	Injured	75
Total	271		23		312

	Killed	*Injured*
Passengers	—	45
Employees	5	184
Others	18	83
Total	23	312

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		NOVA SCOTIA
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 4-0217.
		NEW BRUNSWICK
—	2	Automobile ran into side of train. Licence: N.B. 69417.
—	2	Automobile ran into side of train. Licence: N.B. 24-664.
		QUEBEC
2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. N-34643.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 420-964.
—	3	Transport truck drove onto crossing in front of approaching Rail Diesel Car and was struck. Licence: Que. L-136282.
—	3	Automobile ran into side of train. Licence: Que. 511-506.
—	3	Automobile ran into side of train. Licence: N.Y. 2-F-4355.
3	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. FA-1840.
—	4	Automobile ran into side of train. Licence: Que. 188-296.
—	1	Automobile ran into side of train. Licence: Que. 149-702.
—	1	Automobile ran into side of train. Licence: Que. 257-550.
		ONTARIO
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-26161.
2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 842-482.
3	—	Automobile stalled on crossing and was struck by train. Licence: Ont. 435-569.
—	3	Tractor Trailer drove onto crossing in front of approaching train and was struck derailing same. Licence: Ont. 21181-A.
—	1	Automobile ran into side of train. Licence: Ont. A-34905.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. L-66-383.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 291-340.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 450-707.

Killed	*Injured*	
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: 43589.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 943-174.
—	1	Automobile ran into side of train. Licence: Ont. B-51166.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 833-633.
—	1	Auto truck ran into side of train. Licence: Ont. 672-41-D.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 544-507.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 748-896.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 501172.
—	1	Automobile ran into side of train. Licence: Ont. 434-636.

MANITOBA

—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-82847.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. CT-249.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Snowplow drove onto crossing in front of approaching train and was struck.
—	2	Automobile ran into side of train. Licence: Man. 12-F-39.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. CP-1357.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 94-D-30.
—	4	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. CT-796.

SASKATCHEWAN

—	1	Auto truck ran into side of train. Licence not given.
—	1	Automobile ran into side of train. Licence: Sask. 46-590.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 29890.
—	2	Automobile ran into side of train. Licence: Sask. 161-142.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 58-065.

ALBERTA

—	1	Automobile ran into side of train. Licence: Alta. ZH-100.
—	2	Automobile ran into side of train. Licence: Alta. 85664.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. KB-573.

BRITISH COLUMBIA

—	2	Motorcycle ran into side of train. Licence: B.C. MC-2174.
1	2	Automobile ran into side of train. Licence: B.C. 265843.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-71675.
—	5	Two automobiles drove onto crossing in front of approaching train and were struck. Licence: B.C. 210559, B.C. 9564.

Of the 51 accidents at highway crossings, 44 occurred at unprotected crossings, and 7 at protected crossings. 16 occurred after sunrise and 35 after sunset.

OTTAWA, Ontario, January 13, 1956.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87621 Dec. 15—Authorizing the Municipality of the Township of Toronto to construct a viaduct across the C.N.R. at Alexandra Boulevard, Township of Toronto, Ontario.

87622 Dec. 15—Authorizing the C.P.R. to operate over the culvert and fill at mileage 31·9, Vanguard, Saskatchewan.

87623 Dec. 15—Authorizing the C.N.R. to construct a siding to serve Hydro-Electric Power Commission of Ontario across Nine Mile Road at Alcem, Ontario.

87624 Dec. 15—Authorizing the C.P.R. to use the bridge across Black River at mileage 14·8 Manitouwadge Lake Branch, District of Thunder Bay, Ontario.

87625 Dec. 15—In the matter of approval of plan submitted to the C.N.R. by Wainwright Producers & Refiners Limited, showing proposed location of refinery facilities at Wainwright, Alberta.

87626 Dec. 15—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Beausejour, Manitoba.

87627 Dec. 15—In the matter of approval of plan submitted to the C.P.R. by Husky Oil & Refining Limited, showing proposed location of storage tanks at Manitouwadge, Ontario.

87628 Dec. 15—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks at Armstrong, Ontario.

87629 Dec. 15—In the matter of approval of plan submitted to the C.N.R. by Eitel Brothers, showing proposed location of storage tank at Tillsonburg, Ontario.

97630 Dec. 15—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks at Treherne, Manitoba.

87631 Dec. 15—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks at Handel, Saskatchewan.

87632 Dec. 15—In the matter of filing of Tariffs by The Bell Telephone Company of Canada.

87633 Dec. 15—Authorizing the City of Ottawa, Ontario, to construct a highway across the C.P.R. and C.N.R. at Hurdman Bridge.

87634 Dec. 15—Requiring the C.P.R. to install certain protection at the crossing of the railway at Chamcook, New Brunswick.

87635 Dec. 15—Authorizing the C.N.R. to rearrange the circuit of the automatic protection at the crossing of their railway and the highway at mileage 14·92 and 15·05 Brampton Subdivision, at Malton, Ontario.

87636 Dec. 16—Permitting removal of slow order at the Quebec Central Railway crossing south of station at Robertson, Quebec.

87637 Dec. 16—Approving under the Maritime Freight Rates Act tolls published in certain tariffs, filed by the C.N.R. under section 3.

87638 Dec. 16—Permitting removal of slow order at C.N.R. crossing on Caron Street east of St. Joseph station in the City of Lauzon, Quebec.

87639 Dec. 16—Authorizing the Saskatchewan Department of Highways and Transportation to relocate and widen Highway No. 15 where it crosses the C.N.R. at mile 0·38 Yorkton, Saskatchewan.

87640 Dec. 16—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank at Gainsborough, Saskatchewan.

87641 Dec. 16—In the matter of approval of plan submitted to the C.N.R. by Claydon Company Limited, showing proposed location of storage tanks, etc. near Bird, Manitoba.

87642 Dec. 16—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks at Miniota, Manitoba.

87643 Dec. 16—Approving operation of C.P.R. trains over that portion of its trackage from Wellcox, B.C., to the ferry slip on its wharf in Nanaimo Harbour.

87644 Dec. 19—Permitting removal of slow order at C.N.R. crossing east of station at Buchanan, Saskatchewan.

87645 Dec. 19—In the matter of approval of plan submitted to the C.N.R. by Diamond Oil Company, showing proposed location of storage tanks at London, Ontario.

87646 Dec. 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank at Pine Falls, Manitoba.

87647 Dec. 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of pumping facilities, etc. at Whitecourt, Alberta.

87648 Dec. 19—Permitting removal of slow order at C.N.R. crossing west of station at Lemieux, Quebec.

87649 Dec. 19—Authorizing the C.P.R. to construct a siding to serve S. C. Johnson & Son Limited, across Park Drive, Brantford, Ontario.

87650 Dec. 19—In the matter of approval of plan submitted to the C.P.R. by Winnipeg and Central Gas Company, showing proposed location of storage tanks, etc. at Winnipeg, Manitoba.

87651 Dec. 19—Rescinding Order No. 87395. In the matter of application of the Department of Public Works to construct an overhead bridge across C.P.R. at mileage 1·64 Mountain Subdivision, British Columbia.

87652 Dec. 19—In the matter of application of the C.N.R. for approval of plan showing changes in circuits for automatic protection at the crossing of their railway and the highway west of St. Cyrille Station, Quebec.

87653 Dec. 20—Dismissing the application of the C.N.R. for authority to remove the station agent at Alma, Ontario.

87654 Dec. 20—In the matter of application of the Westcoast Transmission Company Limited, for an order approving proposed deviation in the location of its pipe line within the Caribou District, British Columbia.

87655 Dec. 20—Authorizing the C.N.R. to use the bridge at mileage 71·5 Grand'Mere Subdivision, Quebec.

87656 Dec. 20—In the matter of application of C.N.R. for approval of revised plan showing automatic protection at the crossing of Westbrooke Road, east of station at Collins Bay, Ontario.

87657 Dec. 20—In the matter of application of C.N.R. for approval of revised plan showing automatic block signals as installed between Barlee Junction and Ferlow Junction, Alberta.

87658 Dec. 20—Permitting removal of slow order at C.N.R. crossing at Highway No. 11, east of Grandora, Saskatchewan.

87659 Dec. 20—Permitting removal of slow order at C.P.R. crossing of Bloor Street, Islington, Ontario.

87660 Dec. 20—Authorizing the clearances on the New York Central Railroad Company siding serving Canadian Cellucotton Products Company Limited, Niagara Falls, Ontario.

87661 Dec. 20—In the matter of the application of the Department of National Defence for approval of plans showing pedestrian crossing to be constructed under the C.N.R. Halifax, Nova Scotia.

87662 Dec. 21—In the matter of changes in rate grouping of certain telephone exchanges of The Bell Telephone Co. of Canada.

87663 Dec. 21—In the matter of application of the Quebec Department of Roads for authority to widen Highway No. 23 where it crosses the Quebec Central Railway Company in the County of Beauce, Municipality of Ste. Marie, at mile 104·62, Quebec Subdivision.

87664 Dec. 21—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under section 3.

87665 Dec. 21—Approving plan showing location of Westcoast Transmission Company Limited company pipe line within the Peace River District, British Columbia.

87666 Dec. 21—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Sidney, Manitoba.

87667 Dec. 21—In the matter of application of the C.N.R. for an Order amending Order No. 85934 which authorized them to construct an industrial lead track and a private spur in the City of Winnipeg, Manitoba.

87668 Dec. 21—Permitting removal of slow order at C.P.R. crossing east of station at Strathclair, Manitoba.

87669 Dec. 21—Permitting removal of slow order at C.N.R. crossing east of Wilsonvale station, Coteau du Lac, Quebec.

87670 Dec. 21—Permitting removal of slow order at C.P.R. crossing at mileage 17·35, Galt Subdivision, Ontario.

87671 Dec. 21—In the matter of application of the C.P.R. for approval of plan showing protection as installed at the crossing of Tecumseh Road, Windsor, Ontario.

87672 Dec. 21—In the matter of application of C.N.R. for approval of plan showing protection as installed at the interlocker at the crossing of their railway and the railway of the C.P.R. near Camrose, Alberta.

87673 Dec. 22—Authorizing the C.P.R. to use the bridge at mile 88·0, Red Deer Subdivision, Alberta.

87674 Dec. 22—Authorizing the C.P.R. to operate its trains over the pipe culvert and fill at mileage 29·6, Walkerton Subdivision, Ontario.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1956.

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The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of the Canadian Freight Association for approval of an agreed charge on wire rope and wire strand from points in Ontario to Vancouver.

File 40994·87

Heard at Ottawa November 18, 1955.

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Appearances:

K. D. M. SPENCE, Q.C., for Canadian Freight Association, and Canadian Pacific Railway Company.

W. G. BOYD, for Canadian Freight Association, and Canadian National Railways.

C. W. BRAZIER, for Wright's Canadian Ropes Limited, and British Ropes Canadian Factory Limited.

JUDGMENT

(December 23, 1955)

WARDROPE, A.C.C.:

The matter here involved is an application, dated July 7, 1955, by the Canadian Freight Association for approval of an agreed charge on Wire Rope and Wire Strand, iron or steel, of 130 cents per one hundred pounds, to apply from Hamilton, Smiths Falls and Toronto, Province of Ontario, to Vancouver, Province of British Columbia.

65563—1

The agreement has been executed between Canada Wire and Cable Company Limited; Donald Ropes and Wire Cloth Limited; The B. Greening Wire Company Limited, collectively described as the Shipper, and the Railway* and is applicable to one hundred per cent of the volume forwarded by the Shipper. It is proposed that the agreed charge shall take effect from the 8th July, 1955 the date on which it was lodged with the Board for approval, and is to continue in effect subject to three months' notice effective at the end of one year or any time thereafter.

The application, as launched, is pursuant to the provisions of Part IV of the Transport Act. Chapter 271, R.S. 1952.

On the 22nd July, 1955, the Steel Company of Canada Limited seeks a fixed charge the same as the agreed charge, to apply on the same goods shipped by this company from Montreal, Province of Quebec. It is alleged that unjust discrimination will prevail unless the fixed charge is granted inasmuch as the applicant states that it ships the same goods as, and is in competition with, the signatory parties to the agreed charge at the tariff rate of $2.10 per one hundred pounds which the agreed charge is to displace.

This applicant did not appear at the hearing nor did the railway object to the fixing of the charge.

All of the requirements of the statute and the Board's regulations have been complied with. We have examined the revenue results and find that the charge is compensatory to the railway.

A brief recital of the objective of the railway is, that the purpose of the agreed charge is to assist the shipper to meet competition of foreign imports into British Columbia; to assist in maintaining the shipper in this market which it has served for many years; to retain and possibly regain traffic which has been declining in recent years; and that this objective cannot be adequately secured by means of a competitive tariff under the provisions of the Railway Act due to the incidence of the statutory requirements of Section 337 of the Railway Act. It is asserted that to observe these statutory provisions would entail an unwarranted depletion of revenue, not justified by competitive circumstances, in the intermediate territory to Vancouver.

Objections to the granting of our approval were made by British Ropes Canadian Factory Limited and Wright's Canadian Ropes Limited, both of Vancouver, who manufacture the same commodities there and sell them in the British Columbia market and elsewhere in western Canada.

It is asserted, *inter alia*, by these companies that they have a manufacturing capacity in excess of the demand in British Columbia; that they are well able to supply the whole of the market; that the agreed charge is less than tariff rates whereas they must pay tariff rates for all of the products they ship by railway; and that unjust discrimination will prevail by the granting of the agreed charge.

It was also stated that the raw material from which wire rope or strand is made consists mainly of wire secured in substantial quantities from the United Kingdom and the United States, but that when such wire is secured from Canadian sources in eastern Canada, or from imports through eastern ports, the freight rate paid thereon is greater than the charge proposed for the finished product.

Witnesses on behalf of the shipper stated, mainly, that it had been selling in the British Columbia market for many years; that sales had decreased by 46 to 50 per cent in the years 1953 and 1954 which decrease they attributed to

*British Columbia Electric Railway Company Limited; Canadian National Railway Company; Canadian Pacific Railway Company; Ontario Northland Railway; Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee).

the increase in imports; that the agreed charge would assist in re-establishing stocks of their goods in Vancouver thereby enabling better service to be given to customers; that it was not intended to utilize the agreed charge as a means of undercutting the British Columbia manufacturers; and that the Shipper's prices were aimed at being competitive with these manufacturers.

They stated further that some business had been recovered with the assistance of the agreed charge and which had been taken in anticipation of its approval; that without this assistance it was not possible to maintain inventories in this market; and that the traffic to the railways would continue to decrease unless the relief were granted.

Witness for the objecting companies was invited to show in what way their business would be unjustly discriminated against by approval of the agreement and frankly stated that upon learning of the Shipper's intention not to use the agreed rate for the purpose of undercutting the price, his objections principally amounted to a dislike of the railways subsidizing the eastern shippers. He also asserted that it would be impossible for these shippers to oust imports from the British Columbia market as such imports were currently selling at prices in excess of those prevailing in home markets, with the result that any reduction in price to meet such imports could be easily met by the importers.

In rebuttal of this assertion the eastern shippers stated they laid more stress upon their ability to give service to their customers by the facility accorded by the agreed charge to re-establish inventories; that in some respects there was a superior quality of goods produced in Canada; and that some recovery had been made already.

Witness for the objectors roughly computed the reduction in freight rate as equal to a four per cent reduction in price which, he stated, if made would involve his companies in an annual loss of approximately $100,000.

While the foregoing sketches only briefly some 120 pages of testimony I should not like it to be felt that it constitutes the only matter which has received consideration.

Our own tariff records indicate that competitive rates have been accorded in respect of the movement of these products from eastern Canada for many years past, and I have no doubt that but for the provisions of Section 337 of the Railway Act, would be continued. The right of the railway to institute agreed charges in this respect has been dealt with more specifically, quite recently, in our Judgment *re* Cast Iron Pipe, 71 C.R.T.C. 28, and in *re* iron and steel goods, 71 C.R.T.C. 326. It is unnecessary to review these prior cases, but the principle there involved is adopted in this case.

It has been asserted by the objectors that the net revenue of the railway will not be improved by the making of the agreed charge, but on the other hand the railway asserts that its traffic is being eroded and the proposed agreement is to prevent further erosion, with the hope that it will assist in the recovery of business in which the railway would stand to gain increased traffic. Neither the railway nor ourselves can predetermine whether the objective will succeed. It is, however, a matter of discretionary judgment on the part of the railway as to whether it should undertake to assist in this objective. To allow traffic to dry up without some attempt to retain it at compensatory rates cannot be held to preserve the net revenue of the carrier.

I have carefully weighed up all that has been adduced and cannot find any evidence of the proposed agreed charge creating unjust discrimination against the business of the objecting British Columbia manufacturers, and as in all other respects the agreement appears to be justified, I am of the opinion it should be approved. An Order to this effect will issue.

I would also fix a charge for the Steel Company of Canada Limited the same as the agreed charge and subject to all of the terms and conditions thereof, on the same goods, to apply from Montreal to Vancouver, to take effect from the 23rd July 1955. An Order to this effect will go.

OTTAWA, December 23, 1955.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

ORDER No. 87712

In the matter of the application of the Canadian Freight Association dated July 7th, 1955, under the provisions of the Transport Act for approval of an Agreed Charge:

File No. 40994·87

WEDNESDAY, the 28th day of December, A.D. 1955.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sitting of the Board held at Ottawa on November 18, 1955, in the presence of Counsel for the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, British Ropes Canadian Factory Limited, and Wrights' Canadian Ropes Limited—

It is ordered

1. That the agreed charge on file with the Board under file No. 40994·87 and attached to the said application, between the parties described in Paragraph A thereof, applying on iron or steel wire rope and wire strand from Hamilton, Smiths Falls and Toronto in the Province of Ontario, to Vancouver, British Columbia, be, and it is hereby approved; and the Board hereby fixes the 8th day of July, 1955, as the date from which the said Agreed Charge shall be deemed to have become operative.

2. That a charge be, and it is hereby fixed for the transport by the railway companies parties to the said agreed charge of the same goods to the same destinations as above stated, for The Steel Company of Canada, Limited to be applicable from Montreal, Province of Quebec, subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby fixes the 23rd day of July, 1955, as the date on which the said fixed charge shall be operative.

HUGH WARDROPE,
Assistant Chief Commissioner

ORDER No. 87759

In the matter of the application of the Canadian Pacific Railway Company for a licence under Section 10 of the Transport Act:

File No. 42076·24

FRIDAY, the 6th day of January, A.D. 1956.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 309 be issued to the Canadian Pacific Railway Company for a period of one year commencing on the 15th day of January, 1956, licensing the following ships, namely:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
Assiniboia	125984	3,880
Keewatin	125985	3,856

to transport passengers and/or goods by water between all ports or places in Canada on Lakes Huron (including Georgian Bay) and Superior, and their connecting waters.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 87801

In the matter of the application of the British Columbia Telephone Company, hereinafter called the "Applicant Company", under the provisions of Chapter 66 of the Statutes of Canada 6-7, Geo. V, as amended by Chapter 36 of 4-5 Geo. VI, Chapter 86 of 11 Geo. VI, and Chapter 85 of 15 Geo. VI, for an Order approving the terms and conditions of the issue and sale or other disposition of 200,000 ordinary shares of the capital stock of the Applicant Company:

File No. 29885·13

FRIDAY, the 13th day of January, A.D. 1956.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Ottawa on the 13th day of January, 1956, in the presence of Counsel for the Applicant Company, no one appearing in opposition; and upon considering the evidence and what has been filed in support of the application, public notice of such application having been published in the *Canada Gazette*, and it appearing that the proposed issue is necessary for the purpose of financing the capital requirements of the Applicant Company and to meet existing obligations and commitments, and the Board having decided that the price should be not less than $40.50 per share—

It is ordered

1. That approval be, and it is hereby given to the issue and sale of not more than 200,000 ordinary shares of the capital stock of the Applicant Company as and when the Directors of the Applicant Company may, in their discretion decide, at a price not less than Forty Dollars and Fifty Cents per share, upon the following conditions:

(*a*) That such ordinary shares be first offered to the Applicant Company's existing ordinary shareholders in the ratio of one share for each four ordinary shares held by them on a date of record to be determined by the Applicant Company's Board of Directors for the purpose of such issue; and

(*b*) That any such ordinary shares not taken up by the Applicant Company's existing ordinary shareholders may be disposed of in such manner as the Directors may determine at or above the aforesaid price of Forty Dollars and Fifty Cents per share.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 87877

In the matter of the application of the Victoria Chamber of Commerce in respect of class rates to and from Victoria, British Columbia:

File No. 45464

MONDAY, the 23rd day of January, A.D. 1956.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

L. J. KNOWLES, *Commissioner.*

Whereas the Judgment of the Board dated March 1, 1954, Volume XLIII J.O.R. & R. at page 5 specified the method of computing the distances for the class rates over the water routes between the mainland and Vancouver Island; and

Whereas written submissions have been filed by the Applicant seeking a modification of such method, and such submissions have been replied to by the Canadian National Railways and the Canadian Pacific Railway Company, and a modification has been agreed to by the said parties and upon consideration of such submissions—

It is ordered that Order No. 83242 of March 1, 1954, be, and it is hereby, amended by requiring railways subject to our jurisdiction to amend their class rate tariffs published pursuant to Order No. 83242 and to substitute for the class rates contained therein between Victoria, British Columbia, and all stations in Canada east of Hatzic and Matsqui, British Columbia, class rates constructed by the addition of 43 miles to the distances used in the publication of class rates between the Vancouver group and all stations in Canada east of Hatzic and Matsqui, British Columbia.

It is further ordered that the said railways be, and they are hereby, directed to publish and file with the Board such amended tariffs of class rates to become effective February 1, 1956, on not less than three days' notice, and to maintain such tariffs until further Order of the Board.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87675 Dec. 22—Permitting the removal of slow order at C.P.R. crossing and Provincial Highway No. 13 near station at Wetaskiwin, Alberta.

87676 Dec. 22—Permitting the removal of slow order at British Columbia Electric Railway Company Limited crossing and Crompton Road, Vancouver, British Columbia.

87677 Dec. 22—Permitting the removal of slow order at C.P.R. crossing at Elliott, Ontario, mileage 19·32 Belleville Subdivision.

87678 Dec. 22—Authorizing the C.N.R. to use the bridge on the east leg of the wye connecting Camrose Subdivision and Viking Subdivision, Alberta.

87679 Dec. 22—Authorizing the C.P.R. to operate its trains under the overhead bridge at mileage 56·63 Oshawa Subdivision, Ontario.

87680 Dec. 22—In the matter of the application of the C.N.R. for approval of revised plan No. SD.3623, showing protection at the crossing of their railway and Highway No. 17, mileage 110·4 Sudbury Subdivision, Ontario.

87681 Dec. 22—Authorizing the C.N.R. to make changes in the signals at the crossing of their railway and the railway of the C.P.R. at Joliette, Quebec.

87682 Dec. 22—Authorizing the C.P.R. to operate its trains under the overhead bridge at mileage 10·87 Galt Subdivision, Ontario.

87683 Dec. 22—In the matter of approval of plan submitted to the C.P.R. by the British American Oil Company Limited, showing proposed location of pumping facilities, etc., at Balcarres, Saskatchewan.

87684 Dec. 23—Permitting the removal of slow order at C.N.R. crossing and Du Coude Road, west of the station at Hervey, Quebec.

87685 Dec. 23—Permitting the removal of slow order at C.N.R. crossing and Highway No. 5 west of the station at Dauphin, Manitoba, mileage 0·54 Togo Subdivision, Manitoba.

87686 Dec. 23—Extending the time within which the C.P.R. was required under Order No. 85955 dated April 13, 1955 to install certain protection at Speedvale Ave. (City Limits Road) and Woolwich Street (Elora Road), Guelph, Ontario.

87687 Dec. 23—In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

87688 Dec. 23—In the matter of application of the C.P.R. for approval of revised plan showing protection installed at the crossing of Highway No. 2 near High River, Alberta.

87689 Dec. 23—Authorizing the C.N.R. to operate under the overhead bridge at mileage 8·8 Newmarket, Ontario.

87690 Dec. 27—In the matter of the application of the C.P.R. for approval of overhead clearance on private siding J-76 serving the Marshall-Wells Company, Limited warehouse near Alberta Avenue, Winnipeg, Man.

87691 Dec. 27—In the matter of the application of the C.N.R. and the Excelsior Refineries Ltd., for approval of overhead clearance at shop on siding serving the Excelsior Refineries Ltd., at mileage 86·25 Blackfoot Subdivision, at Lloydminster, Alberta.

87692 Dec. 27—Approval of Supplement No. 1 dated December 1, 1955, to Traffic Agreement dated January 14, 1952, between The Bell Telephone Company and The Corporation of the Township of North Gosfield.

87693 Dec. 27—Approving Supplement No. 4 to Service Station Contract between The Bell Telephone Company of Canada and the Leith and Annan Telephone Company Limited.

87694 Dec. 27—Rescinding Order No. 86666, dated July 27, 1955.

87695 Dec. 27—Permitting the removal of slow order at C.P.R. crossing and Ste. Ursule Road, west of the station at Louisville, Quebec.

87696 Dec. 27—Permitting the removal of slow order at crossing of Esquimalt and Nanaimo Railway Company and the Alberni Highway crossing at mileage 95·3 Victoria Subdivision, British Columbia.

87697 Dec. 27—Permitting the removal of slow order at C.N.R. crossing and the highway at mileage 311·99 Oshawa Subdivision, Ontario.

87698 Dec. 27—Permitting the removal of slow order at C.N.R. crossing east of the station at Bienfait, Saskatchewan.

87699 Dec. 27—In the matter of the application of the C.P.R. on behalf of Gibson Petroleum Company Limited, for an extension of temporary permission to load crude oil into tank cars from tank trucks at Veteran, Alberta.

87700 Dec. 27—In the matter of the application of the C.N.R. on behalf of Central Leduc Oils Limited, for extension of temporary permission to load crude oil into tank cars from tank trucks at mileage 8·9 Weyburn Subdivision (C.N.R.), Saskatchewan.

87701 Dec. 27—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tank at Melita, Manitoba.

87702 Dec. 27—Application of Westspur Pipe Line Co. for approval of plan showing the trunk line of the Westspur Pipe Line Company from the Manitoba-Saskatchewan boundary from the easterly side of Section 13, Township 8, Range 30, West Principal Meridian, Rural Municipality of Antler No. 61 to the westerly side of Section 27, Township 5, Range 33, West Principal Meridian, Rural Municipality of Reciprocity No. 32 at Alida Terminal, Saskatchewan.

87703 Dec. 27—Authorizing the City of Nanaimo, British Columbia, to construct a pedestrian crossing across the right-of-way of the Esquimalt and Nanaimo Railway Company in the vicinity of St. David Street, Nanaimo, British Columbia.

87704 Dec. 28—Permitting the removal of slow order at C.P.R. crossing at Murillo, Ontario.

87705 Dec. 28—In the matter of approval of plan submitted to the C.N.R. by the British American Oil Company Limited, showing proposed location of storage tanks. etc. at Nipigon, Ontario.

87706 Dec. 28—Permitting the removal of slow order at C.P.R. crossing and Church Street, Sault Ste. Marie, Ontario.

87707 Dec. 28—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks at Gilbert Plains, Manitoba.

87708 Dec. 28—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank at Langruth, Manitoba.

87709 Dec. 28—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc., at Ceylon, Saskatchewan.

87710 Dec. 28—Dismissing the application of the C.N.R. for authority to remove the station agent at Lowe Farm, Manitoba.

87711 Dec. 28—Authorizing the C.N.R. to construct a siding at Quinton, Sask.

87712 Dec. 28—In the matter of application of Canadian Freight Association for approval of an agreed charge on iron or steel wire rope and wire strand from points in Ontario to Vancouver, British Columbia.

87713 Dec. 29—Permitting the removal of slow order at C.P.R. crossing on Pipeline Road, mileage 112·8 Cascade Subdivision, British Columbia.

87714 Dec. 29—Permitting the removal of slow order at C.N.R. crossing at Highway No. 15 east of Kelliher. Saskatchewan.

87715 Dec. 30—In the matter of application from the Northern Alberta Railways Company on behalf of Shell Oil Company Limited, for extension of temporary permission to load crude oil into tank cars from tank trucks at Reno, Alberta.

87716 Dec. 30—Authorizing the C.P.R. to operate under the overhead bridge at mileage 4·9 Webbwood Subdivision, Ontario.

87717 Dec. 30—Authorizing the C.P.R. to operate under the overhead bridge trestle at mileage 5·44 Webbwood Subdivision, and mileage 0·85 Pyrrhotite Spur, Town of Copper Cliff, Ontario.

87718 Dec. 30—In the matter of application of C.P.R. on behalf of Husky Oil and Refining Limited, for temporary permit to load crude oil into tank cars from tank trucks at Macoun, Saskatchewan.

87719 Dec. 30—In the matter of approval of plan submitted to C.P.R. by Dominion Building Materials Limited, showing proposed location of storage tanks, etc., at mileage 6·7 Sussex Street Subdivision, Ottawa, Ontario.

87720 Dec. 30—Permitting the removal of slow order at C.P.R. crossing of West Street, Trenton, Ontario.

87721 Dec. 30—In the matter of application from the C.P.R. on behalf of Gibson Petroleum Company, Limited, for extension of temporary permission to load crude oil into tank cars from tank trucks at Thorne, Alberta.

87722 Dec. 30—In the matter of application of Westcoast Transmission Company Limited, for an order approving plan showing location of company pipe line from a point on the easterly boundary of District Lot 373, Peace River District, to a point on the easterly boundary of District Lot 11608, Caribou District, British Columbia.

87723 Jan. 3—In the matter of application of the New York Central Railroad Company for approval of plan showing protection installed at the crossing of King Street, Welland, Ontario.

87724 Jan. 3—In the matter of application of C.N.R. for an order extending the time within which they were authorized by Order No. 86397 to install automatic protection at the crossing of their railway and Station Street, Giffard, Quebec.

87725 Jan. 3—In the matter of application of C.P.R. on behalf of Imperial Oil Limited, for temporary permit to load crude oil into tank cars from tank trucks at Nottingham, Saskatchewan.

87726 Jan. 3—In the matter of approval of plan submitted to C.P.R. by New Brunswick Railway Company, showing proposed location of storage tank, etc., at McAdam Junction, New Brunswick.

87727 Jan. 3—In the matter of approval of plan submitted to C.P.R. by Canadian Oil Companies Limited, showing proposed location of storage tank at Harriston, Ontario.

87728 Jan. 3—In the matter of approval of plan submitted to C.N.R. by the Sun Oil Company Limited, showing proposed location of storage tank at Bridge, Quebec.

87729 Jan. 3—Relieving the C.P.R. from erecting railway fencing on certain portion of its right-of-way between mileage 0·72 and mileage 2·30 Waltham Subdivision, Quebec.

87730 Jan. 3—Authorizing the C.P.R. to use and operate the subway at 8th Street West, Calgary, Alberta.

87731 Jan. 3—In the matter of approval of plan submitted to the C.N.R. by Eston Co-Operative Association Limited, showing proposed location of pumping facilities at Eston, Saskatchewan.

87732 Jan. 3—Authorizing the County of Waterloo, to widen Highway No. 6 where it crosses the C.N.R. at mileage 69·24 Brampton Subdivision, Ontario.

87733 Jan. 3—In the matter of apportionment of costs of the works of protection carried out at the crossing of the C.N.R. and Fifth Avenue, etc., in the Town of Ville St. Pierre, Quebec.

87734 Jan. 4—Dismissing the application of the C.P.R. for authority to remove the station agent at Chamberlain, Saskatchewan.

87735 Jan. 4—Permitting the removal of slow order at C.N.R. crossing and Erin Street, Saint John, New Brunswick.

87736 Jan. 4—In the matter of the application of C.N.R. for approval of plan showing re-location of signs at the intersection of King Street and Ritson Road, Oshawa, Ontario.

87737 Jan. 5—Approving plan showing location of Westspur Pipe Line Company gathering system at Frobisher, Saskatchewan.

87738 Jan. 5—Approving plan showing location of Westspur Pipe Line Company gathering system in the Nottingham area, Saskatchewan.

87739 Jan. 5—Amending Order No. 86081, in regard to permit to load crude oil at Frobisher, Saskatchewan.

87740 Jan. 5—Authorizing the C.P.R. to operate its trains under the overhead conveyor bridge at mileage 3·78 Park Avenue Subdivision, Montreal, Quebec.

87741 Jan. 5—In the matter of improving protection at crossing of 82nd (Whyte) Avenue by the C.P.R. in the City of Edmonton, Alberta, and in the matter of Order No. 86628.

87742 Jan. 5—Dismissing the application of the C.N.R. for authority to remove the station agent at Springwater, Saskatchewan.

87743 Jan. 5—Approving plan showing track layout in the vicinity of the crossing of the C.N.R. and Wilson Avenue in Downsview, Ontario.

87744 Jan. 5—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

87745 Jan. 5—Approving proposed signal changes to be made by the C.P.R. at Struthers, Ontario.

87746 Jan. 5—Permitting the removal of slow orders at C.N.R. crossing at mileage 79·8 Maynooth Subdivision, Ontario.

87747 Jan. 5—Approving location and details of station proposed to be erected by the C.N.R. at Beloeil, Quebec.

87748 Jan. 6—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Carmangay, Alberta.

87749 Jan. 6—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing proposed location of storage tanks, etc. at Preeceville, Saskatchewan.

87750 Jan. 6—Amending Order No. 87289 in the matter of application of Township of Normanby, County of Grey, Ontario, for automatic protection at mileage 20·43 Owen Sound Subdivision.

87751 Jan. 6—Permitting the removal of slow order at C.N.R. crossing and Alma Street, south of station at Hebertville, Quebec.

87752 Jan. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone Guevremont.

87753 Jan. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Le Reseau de Téléphone St-Henri de Mascouche.

87754 Jan. 6—In the matter of Order No. 85393 and application of Northern Alberta Railway Company for permission to load crude oil at Kathleen, Alberta.

87755 Jan. 6—Approving revised appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Corporation de Téléphone de Québec.

87756 Jan. 6—In the matter of approval of plan submitted to the C.N.R. by the Neepawa Consumers Co-Operative Limited, showing proposed location of storage tanks, etc. at Neepawa, Manitoba.

87757 Jan. 6—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing proposed location of storage tank at Edam, Saskatchewan.

87758 Jan. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Austin Telephones Limited.

87759 Jan. 6—In the matter of the application of the C.P.R. for a licence under section 10 of the Transport Act.

87760 Jan. 6—Extending the time within which protection is to be installed at C.N.R. crossing of Gage Avenue, Hamilton, Ontario.

87761 Jan. 6—Extending the time within which the crossing protection is to be installed at C.N.R. crossing of Ottawa Street, Hamilton, Ontario.

87762 Jan. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Prescott Rural Telephone Company Limited.

87763 Jan. 6—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Davis Telephone System.

87764 Jan. 6—Extending the time within which the C.P.R. branch line is to be constructed in the County of Peterborough, Ontario.

87765 Jan. 6—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone du Golfe St. Laurent.

87766 Jan. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Leeds & Grenville Independent Telephone Company Limited.

87767 Jan. 9—Permitting the removal of slow order at C.N.R. crossing of the 8th line east of the station at Oakville, Ontario.

87768 Jan. 9—Approving plan showing location of the Westcoast Transmission Company Limited pipe line within the Peace River District, British Columbia.

87769 Jan. 9—Authorizing the Township of Ascot, Quebec, to construct the highway across the Quebec Central Railway in the Township of Ascot, County of Sherbrooke, Quebec.

87770 Jan. 9—Extending the time for the rearrangement of the circuits for automatic protection at crossing of the C.N.R. and Norfolk Street, in the Town of Simcoe, Ontario.

87771 Jan. 9—Permitting the removal of slow order at C.P.R. crossing of Forced Road, Pembroke, Ontario.

87772 Jan. 9—In the matter of the applictaion of the C.N.R. for authority to discontinue as an agency their station at Clanwilliam, Manitoba.

87773 Jan. 9—Permitting the removal of slow order at C.N.R. crossing of Cawthra Road, Ontario.

87774 Jan. 9—Authorizing the Westcoast Transmission Company Limited to carry its company pipe line across the C.P.R. at certain mileages Merritt and Coquihalla Subdivisions, British Columbia.

87775 Jan. 9—Authorizing the Westcoast Transmission Company Limited to carry its pipe line across the C.P.R. and C.N.R. at certain points in the Province of British Columbia.

87776 Jan. 9—Permitting the removal of slow order at C.N.R. crossing south of station at Thornlea, Ontario.

87777 Jan. 9—Permitting the removal of slow order at The Toronto Hamilton & Buffalo Railway Company crossing west of Stoney Creek, Ontario.

87778 Jan. 10—Permitting the removal of slow order at C.N.R. crossing of Highway No. 4, west of Portage, Manitoba.

87779 Jan. 10—Permitting the removal of slow order at C.P.R. crossing at mileage 99·90 Chalk River Subdivision, Ontario.

87780 Jan. 10—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Charlottttown, Prince Edward Island.

87781 Jan. 10—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 86692 to install certain protection at crossing of St. Ambroise Street between Loretteville and Chateau D'Eau, Quebec.

87782 Jan. 10—Permitting the removal of slow order at C.N.R. crossing south of station at Penetang, Ontario.

87783 Jan. 11—Authorizing the C.P.R. to operate under the overhead bridge at mileage 22·22 Nelson Subdivision, British Columbia.

87784 Jan. 11—In the matter of application of the C.N.R. for an Order extending the time within which they were required by Order No. 85968, to install automatic protection at crossing of Highway No. 9 at mileage 40·37 Drumheller Subdivision, Alberta.

87785 Jan. 11—Approving detailed plan showing proposed crossing of the Westcoast Transmission Company Limited pipe line and the track of the Pacific Great Eastern Railway Company at a point north of Prince George, British Columbia.

87786 Jan. 11—Permitting the removal of slow order at C.N.R. crossing at Township Crossing, Ontario, at mileage 24·46 Maynooth Subdivision.

87787 Jan. 11—In the matter of the application of the C.N.R. for an Order extending the time within which they were required by Order No. 85496, to install certain protection at the crossing of Lottridge Avenue, Hamilton, Ontario.

87788 Jan. 12—Approving proposed location of storage tanks, etc. of Winnipeg Light Aggregate Limited near C.N.R. tracks at Transcona, Manitoba.

87789 Jan. 12—In the matter of the application of the Township of Camden East, Ontario, for authority to improve the sight lines at the crossing of the C.P.R. just east of Lens Station, Ontario.

87790 Jan. 12—Requiring the Alberta Department of Highways to install certain protection at the crossing of the C.N.R. and Highway No. 11, near Sylvan Lake, Alberta.

87791 Jan. 12—In the matter of the application of the Town of Hearst, Ontario, for installation of automatic protection at the crossing of the Algoma Central and Hudson Bay Railway Company and Highway No. 11 at Wyborn, Ontario.

87792 Jan. 12—In the matter of approval of plan submitted to the C.N.R. by The British American Oil Company Limited, showing proposed location of storage tanks, etc. at Flin Flon, Manitoba.

87793 Jan. 12—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing proposed location of storage tanks, etc. in the Township of North York, Ontario.

87794 Jan. 12—Permitting the removal of slow order at C.P.R. crossing of Inkerman, Ontario.

87795 Jan. 12—Permitting the removal of slow order at C.P.R. crossing and St. Sacrament Street, west of Cadorna Tower, Quebec.

87796 Jan. 12—In the matter of the application of the C.N.R. on behalf of Gibson Petroleum Company Limited for an extension of temporary permit to load crude oil into tank cars from tank trucks at Munson, Alberta.

87797 Jan. 13—Authorizing the C.N.R. to use the bridge at mileage 60·9, Montmagny Subdivision, Quebec.

87798 Jan. 13—Authorizing Mr. C. A. Carlson, to lay a water pipe under the pipe line of the Trans Mountain Oil Pipe Line Company, Kamloops Division of the Yale District, British Columbia.

87799 Jan. 13—Permitting removal of slow order at C.N.R. crossing west of station at Petersburg, Ontario.

87800 Jan. 13—In the matter of application of C.N.R. for an order authorizing them to remove the station at Lake Joseph, Ontario.

87801 Jan. 13—Authorizing the British Columbia Telephone Company to issue and sell not more than 200,000 ordinary shares of its capital stock.

87802 Jan. 13—Authorizing the Township of Etobicoke to carry a sewer across the oil pipe line of the Trans Northern Pipe Line Company, in the County of York, Ontario.

87803 Jan. 13—Requiring the C.P.R. to install certain protection at the crossing of Davies Avenue, near Port Coquitlam, British Columbia.

87804 Jan. 13—Extending the time within which certain protection is to be installed at C.N.R. crossing of Woodward Avenue, Hamilton, Ontario.

87805 Jan. 16—Permitting the removal of slow order at C.N.R. crossing at mileage 48·1, Chandler Subdivision, Quebec.

87806 Jan. 16—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 8 at Doaktown, New Brunswick.

87807 Jan. 16—Permitting removal of slow order at C.P.R. crossing and Highway No. 24 at mileage 4·66 Elora Subdivision, Ontario.

87808 Jan. 16—In the matter of accident at the crossing of the C.N.R. and Fifth Avenue, at Ville St. Pierre, Quebec.

87809 Jan. 16—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited, showing proposed location of storage tank at Darlingford, Manitoba.

87810 Jan. 16—In the matter of approval of plan submitted to the C.N.R. by Irving Oil Company Ltd., showing proposed location of storage tanks, etc. at Woodside, New Brunswick.

87811 Jan. 16—Dismissing the application of the C.P.R. for authority to remove their station agent and appoint a caretaker at Enchant, Alberta.

87812 Jan. 16—In the matter of accident at the crossing of Ontario Road and the New York Central Railroad Company, Welland, Ontario.

87813 Jan. 16—In the matter of approval of plan submitted to the C.P.R. on behalf of Canadian Gulf Oil Company, showing location of their loading rack for loading of crude oil at Frobisher, Saskatchewan.

87814 Jan. 16—Permitting removal of slow order at New York Central Railroad Company crossing at Middle Road, Aylmer, Ontario.

87815 Jan. 16—Authorizing the town of Victoriaville, Quebec, to extend Mercier Street across the C.N.R. by means of a subway.

87816 Jan. 17—Authorizing the C.N.R. to operate under the overhead bridge at Don Mills Road, Township of North York, Ontario.

87817 Jan. 17—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of office building at Redwater, Alberta.

87818 Jan. 17—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 21, Wyoming, Ontario.

87819 Jan. 17—Authorizing the Quebec Department of Roads to relocate St. Claire Road where it crosses the C.N.R. in the Town of West Quebec, Quebec.

87820 Jan. 17—Authorizing the C.N.R. to operate under the overhead bridge in the Township of Hawkesbury West, Ontario.

87821 Jan. 17—Authorizing the North-western Utilities Limited, to construct a gas pipe line under the line of the Interprovincial Pipe Line Company in the Province of Alberta.

87822 Jan. 17—Authorizing the C.N.R. to use the bridge over the creek at mileage 172·3 Gladstone Subdivision, Manitoba.

87823 Jan. 17—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of connecting pipe line etc. at Churchill, Manitoba.

87824 Jan. 17—In the matter of approval of plan submitted to the C.N.R. by the Preeceville Farmers Co-Operative Association Limited, showing proposed location of storage tanks at Preeceville, Saskatchewan.

87825 Jan. 17—Authorizing the C.P.R. to operate under certain overhead bridge at mileage 35·62, Nelson Subdivision, British Columbia.

87826 Jan. 17—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Rossendale, Manitoba.

87827 Jan. 17—Authorizing the C.N.R. to operate under the overhead bridge in the Township of Etobicoke, Ontario.

87828 Jan. 18—Approving clearances at various points in the C.P.R. West St. John Yard, New Brunswick.

87829 Jan. 18—Authorizing the C.P.R. to discontinue the operation of passenger train service on its St. Lin Subdivision between Ste. Therese and St. Lin, Quebec.

87830 Jan. 18—Authorizing the C.N.R. to operate over the east approach of the steel bridge over the Souris River, Manitoba.

87831 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company of Canada, and the Madawaska Valley Telephone Company Limited.

87832 Jan. 18—Authorizing the C.P.R. to use the bridge at mileage 37·8 MacLeod Subdivision, Alberta.

87833 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company of Canada and Les Pionniers de St. Marc.

87834 Jan. 18—Authorizing the Ontario Department of Highways to construct a subway at the crossing of Highway No. 69 and the main line of the C.N.R. at Foote's Bay, Ontario.

87835 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Addison Rural Independent Telephone Company Limited.

87836 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Ernestown Rural Telephone Company Limited.

87837 Jan. 19—Requiring the C.N.R. to install certain protection at the crossing of the highway and the Canadian National Railways at Boundary Creek Station, New Brunswick.

87838 Jan. 19—Permitting the removal of slow order at C.N.R. crossing at mileage 74·5, Nashwack Subdivision, New Brunswick.

87839 Jan. 19—Permitting the removal of slow order at C.P.R. crossing near Robertson, Alberta.

87840 Jan. 19—Permitting the removal of slow order at C.N.R. crossing west of Eriksdale, Manitoba.

87841 Jan. 19—Permitting the removal of slow order at C.N.R. crossing south of station at Elmvale, Ontario.

87842 Jan. 19—Permitting the removal of slow order at C.P.R. crossing at Ouimet, Ontario.

87843 Jan. 19—Permitting the removal of slow order at C.N.R. crossing east of station at Gainford, Alberta.

87844 Jan. 19—Permitting the removal of slow order at C.P.R. crossing of 11th Avenue East, near station in the City of Swift Current, Saskatchewan.

87845 Jan. 19—Permitting removal of slow order at C.P.R. crossing near station at Marchand, Quebec.

87846 Jan. 19—Extending the time within which the C.N.R. is required by Order No. 86455 to install certain protection at the crossing of Twin City Crossroad, near Rosslyn, Ontario.

87847 Jan. 19—In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act and Order No. 87198 approving tolls published in Tariff C.T.C. No. 1515 filed by the Canadian Freight Association.

87848 Jan. 19—Authorizing the C.N.R. to remove the station agent at Ardill, Saskatchewan.

87849 Jan. 19—In the matter of application of the C.P.R. on behalf of Imperial Oil Limited for extension of temporary permit to load crude oil from tank trucks to tank cars at Alida, Saskatchewan.

87850 Jan. 19—In the matter of approval of plan submitted to the C.N.R. by Canadian Industries Limited, showing proposed location of storage tanks, etc. at North York Township, Ontario.

87851 Jan. 19—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Milford, Nova Scotia.

87852 Jan. 19—In the matter of approval of plan submitted to the C.N.R. by Shell Oil Company of Canada Limited, showing proposed location of storage tanks, etc. at Granby, Quebec.

87853 Jan. 19—In the matter of approval of plan submitted to the Northern Alberta Railways Company, by Imperial Oil Limited, showing proposed location of storage tank, etc. at Brownvale, Alberta.

87854 Jan. 19—Dismissing the application of the C.N.R. for authority to remove station agent at Spruce Grove, Alberta.

87855 Jan. 19—Authorizing the Consumers' Gas Company of Toronto to install natural gas main on and along the bridge of The Toronto Harbour Commissioners and the C.N.R. across the Don River at Keating Street, Toronto, Ontario.

87856 Jan. 19—Approving revised plans showing C.N.R. bridge over Opawica Lake, Quebec.

87857 Jan. 19—In the matter of application of the Quebec Department of Roads for authority to relocate Bridge Road where it crosses the C.N.R. west of station at Ste. Florence, Quebec.

87858 Jan. 19—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the Canadian Freight Association under sections 3 and 8.

87859 Jan. 19—In the matter of application of British Columbia Toll Highways and Bridges Authority for an order authorizing the construction of the highway across the Vancouver and Lulu Island Railway and across the B.C. Electric Railway Company Limited by means of an overhead bridge in the City of Vancouver, British Columbia.

87860 Jan. 19—Permitting the removal of slow order at C.P.R. crossing south of Essa, Ontario.

87861 Jan. 19—Permitting the removal of slow order at C.P.R. crossing of Concession Road at mileage 45·84 MacTier Subdivision, Ontario.

87862 Jan. 19—In the matter of filing of Tariffs by The Bell Telephone Company of Canada.

87863 Jan. 20—In the matter of application of the C.N.R. for authority to remove the station agent at Waldron, Saskatchewan.

87864 Jan. 20—In the matter of application of the C.N.R. on behalf of Canadian Gulf Oil Company, for extension of temporary permit to load crude oil into tank cars from tank trucks at Minard, Saskatchewan.

87865 Jan. 20—In the matter of application of the C.N.R. for authority to remove the station at Wordesworth, Saskatchewan.

87866 Jan. 20—Permitting the removal of slow order at C.P.R. crossing of 26th Avenue East, Calgary, Alberta.

87867 Jan. 20—In the matter of application of C.P.R. for authority to remove the station agent and appoint a caretaker at Parkland Station, Alberta.

87868 Jan. 20—Permitting the removal of slow order at C.N.R. crossing of First Avenue east of Dominion Station at Lachine, Quebec.

87869 Jan. 20—Authorizing the C.N.R. to relocate the automatic protection at the crossing of their railway and the intersection of Victoria Avenue and New Brunswick Street, Fort William, Ontario.

87870 Jan. 23—Authorizing the Quebec Department of Roads to construct Highway No. 6 across the C.N.R. in the Town of Mont Joli, Quebec.

87871 Jan. 23—Authorizing the City of Edmonton, Alberta, to construct 97th Street across the C.P.R.

87872 Jan. 23—Requiring the C.N.R. to install certain protection at the crossing of Highway No. 17 east of the Town of Arnprior, Ontario.

87873 Jan. 23—Requiring the C.N.R. to install certain protection at the crossing at Sutier Hill, New Brunswick.

87874 Jan. 23—Permitting the removal of slow order at C.N.R. crossing west of station at Val d'Or, Quebec.

87875 Jan. 23—Permitting the removal of slow order at C.N.R. crossing of Highway No. 11 west of station at Jellicoe, Ontario.

87876 Jan. 23—Permitting the removal of slow order at C.P.R. crossing at mileage 127·4 Shuswap Subdivision, British Columbia.

87877 Jan. 23—In the matter of application of the Victoria Chamber of Commerce in respect of class rates to and from Victoria, British Columbia.

87878 Jan. 24—Authorizing the C.N.R. to construct extension of their passing track across the highway at mileage 100·50, Hopewell Subdivision, Nova Scotia.

87879 Jan. 24—Authorizing the C.P.R. to operate its trains over the mine portal of the Crow's Nest Pass Coal Company Ltd. at mileage 12·8 Cranbrook Subdivision, British Columbia.

87880 Jan. 24—Permitting the removal of slow order at C.P.R. crossing, Prince William, New Brunswick.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

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File 47526

In the matter of the application of the Municipality of the Township of Magog, P.Q., for an Order directing the reconstruction of the overhead bridge over the tracks of the Canadian Pacific Railway Company on Austin Road, about one and one-half miles from Magog, P.Q., at mileage 89·6 Sherbrooke Subdivision.

ORAL JUDGMENT

Delivered at conclusion of hearing held in Magog, Que., on December 2, 1955.

THE DEPUTY CHIEF: Here is our decision in this case:

After careful consideration of everything placed before us by way of correspondence and during this hearing, and argument presented by counsel for the Canadian Pacific Railway to the effect that the apportionment of the cost of the reconstruction of the bridge in question should be on a benefit basis, we agree in principle with that contention. We do not agree, however, with counsel for C.P.R. with respect to his estimate of the benefit which would accrue to the railway if the bridge was reconstructed in accordance with the plan submitted to the Board, principally for the reason that if the new bridge was of timber construction it would have to be reconstructed approximately every 20 years, whereas the plan is for a concrete bridge having a life expectancy of some 75 years.

Moreover, the maintenance costs of a timber structure are greater than those of a concrete structure. Heretofore the railway had reconstructed and maintained the bridge at its own expense. The new bridge is to be wider and stronger and the Department of Roads of the Province of Quebec has agreed to pay the maintenance costs of the approaches, the wearing surface of the bridge and the sidewalks thereon, but is of the opinion that the maintenance

68028—1

costs of the bridge structure should be borne by the railway. Aside from these costs the Department suggests that the apportionment of costs should, after a grant of 30 per cent from the Grade Crossing Fund, be divided, the balance, 60 per cent to be paid by the Department and 40 per cent by the railway. The estimated costs of the new bridge is $50,300.

In our opinion the cost should be apportioned as follows: For the construction of the bridge, 30 per cent, not exceeding the amount of $15,090 to be paid from the Grade Crossing Fund, $14,000 to be paid by the Canadian Pacific Railway, and the balance to be paid by the Department of Roads, Province of Quebec. The maintenance costs of the approaches, the wearing surface of the bridge and the sidewalks to be paid by the Department of Roads, Province of Quebec. The maintenance cost of the bridge structure to be paid 50 per cent by the C.P.R. and 50 per cent by the Department of Roads, Province of Quebec.

An order will go accordingly. We do now adjourn.

Mr. METHOT: Just one minute. Who is going to take care of the maintenance? I mean I suppose it is the C.P.R. is going to take care of the structure and we—I mean not of the cost, I mean taking care—should do the maintenance?

Commissioner CHASE: You mean the C.P.R. do the maintenance and bill you for one-half of the costs?

Mr. METHOT: Yes, and we do the maintenance on which we go on all costs.

Commissioner CHASE: That is right.

The DEPUTY CHIEF: Yes.

(MAGOG SITTINGS CONCLUDED)

ORDER No. 88102

In the matter of the application of the Municipality of the Township of Magog, in the Province of Quebec, for an Order directing the reconstruction of the overhead bridge over the tracks of the Canadian Pacific Railway Company on Austin Road, about one and one-half miles from Magog, in the Province of Quebec, mileage 89·6 Sherbrooke Subdivision:

File No. 47526

WEDNESDAY, the 15th day of February, A.D. 1956.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting of the Board held in Magog, P.Q., on the 2nd day of December, 1955, in the presence of Counsel for the Canadian Pacific Railway Company and the Department of Roads of the Province of Quebec, and a representative of St. Benoit du Lac Monastery; and upon the consent of the Department of Roads of the Province of Quebec—

It is ordered

1. That the Township of Magog be, and it is hereby, authorized to reconstruct the overhead bridge over the tracks of the Canadian Pacific Railway Company on Austin Road, about one and one-half miles from Magog, in the Province of Quebec, mileage 89·6 Sherbrooke Subdivision, as shown on Plan No. 12489, dated September 1954, and detailed plans No. 12489-9, date stamped received January 25, 1955, and No. P-12489-8, dated November, 1954, on file with the Board under file No. 47526; the said bridge to be constructed in accordance with the provisions of General Order No. 589.

2. That thirty per cent of the cost of construction of the said overhead bridge, not exceeding, however, the sum of $15,090.00, be paid out of the Railway Grade Crossing Fund, $14,000.00 by the Canadian Pacific Railway Company, and the remainder of such cost be borne and paid by the Department of Roads of the Province of Quebec.

3. That all costs of maintenance of the approaches, the wearing surface of the bridge and the sidewalks be borne and paid by the Department of Roads of the Province of Quebec.

4. That all costs of maintenance of the bridge structure be borne and paid in equal amounts by the Canadian Pacific Railway Company and the Department of Roads of the Province of Quebec.

HUGH WARDROPE,
Assistant Chief Commissioner.

In the matter of the apportionment of the costs of the works of protection carried out at the crossing of the Canadian National Railways and Fifth Avenue, in the Town of Ville St. Pierre, at the crossing of the canal bank spur of the Canadian National Railways and Fifth Avenue in the Town of Ville St. Pierre, at the crossing of the railway of the Canadian Pacific Railway Company and Dollard Avenue in the Town of Ville LaSalle in pursuance of the provisions of Order of the Board No. 80562, dated January 7th, 1953, and of the cost of construction by the Department of Roads of the Province of Quebec of an overpass of the eastward lane of Highway No. 2 across Fifth Avenue authorized by the same Order.

Files Nos. 14813
27156.277

Before:

A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*
H. B. CHASE, *C.B.E., Commissioner.*

Heard at:

Montreal, P.Q., on November 29th, 1955.

Appearances:

LÉON MÉTHOT, Q.C., for the Department of Roads, Province of Quebec.
EME. LACROIX, Q.C., for Ville LaSalle.
GAÉTAN CHABOT, for Ville St. Pierre.
K. D. M. SPENCE, Q.C., for Canadian Pacific Railway Company.
W. G. BOYD, for Canadian National Railways.
JOHN LETOURNEAU, Q.C., for Montreal Transportation Commission.

JUDGMENT

CHASE, *Commissioner:*

In the year 1952, taking the direction north to south, Fifth Avenue crossed (1) the double track main line of the Canadian National Railways; (2) the double track line of the Montreal Transportation Commission; (3) the canal bank spur of the Canadian National Railways; (4) the lift bridge over the Lachine Canal; (5) an industrial track of the Canadian Pacific Railway; (6) St. Patrick Street, Ville LaSalle; and continuing on connected with one of the main arteries leading to the United States. It was, and is, a very heavily travelled highway.

With the exception of the Lachine Canal Bridge, the crossing carried two lines of highway traffic in each direction but only one line in each direction over the Canal Bridge, the result being that the bridge itself did, and still does, create a serious bottle-neck, as two lines of traffic moving south must merge into one line in order to get over the bridge. Highway traffic is further congested when the bridge is open to permit the passage of the canal traffic.

In the reverse direction, that is to say, going from south to north, after clearing the double track main line of the Canadian National Railways, traffic moving north met up with another serious bottle-neck when it reached Provincial Highway No. 2. Traffic moving east had to wait there for an opportunity to merge in with the traffic going east on Highway No. 2 and traffic desiring to cross Highway No. 2 also had to wait its opportunity, which in turn frequently caused the highway traffic to be stalled in between the

Canal Bridge and Provincial Highway No. 2—consequently being liable to be struck by trains of the Canadian National Railways. At that time, the Canadian National crossing was protected by two wig-wags and bell and in the latter part of that year, following an inspection by officers of the Board, a recommendation was made to the Board to change the protection by installing automatic short-arm gates with flashing lights, signals and bell.

Following a hearing conduced in Montreal on December 29th and 30th, 1952, the Board issued Order No. 80562 dated January 7th, 1953, which reads as follows:—

"It is ordered

1. That, within six months from the date of this Order, the Canadian National Railways install and maintain two automatic short arm gates with flashing light signals and bell, and two additional flashing light units on the north signal, in lieu of the present wig wag signals and bell, at the crossing of their railway and Fifth Avenue in the Town of Ville St. Pierre, in the Province of Quebec.

2. That, within six months from the date of this Order, the Canadian National Railways install and maintain two manually operated flashing light signals and one bell at the crossing of Fifth Avenue and their Canal Bank Spur in the Town of Ville St. Pierre, in the Province of Quebec.

3. That, within six months from the date of this Order, the Canadian Pacific Railway Company install and maintain at the crossing of Dollard Street and its railway in the Town of Ville LaSalle, in the Province of Quebec:

(*a*) two manually operated flashing light signals and one bell,

(*b*) one 'NO LEFT TURN' sign on St. Patrick Street west of Dollard Street,

(*c*) one 'NO RIGHT TURN' sign on St. Patrick Street east of Dollard Street, and

(*d*) one automatic bell to be operated only when traffic officer is on duty at the intersection of Dollard Street and St. Patrick Street.

4. That the Canadian National Railways supply and install the necessary cable between their tracks and the Lachine Canal Bridge, and between their tracks and the Canadian Pacific Railway Company's industrial spur, for the inter-connection of the controls necessary betwen these points.

5. That all protection be so inter-connected that the north gate of the Canadian National Railways' main track crossing will be down before the protection at the other points start operating.

6. That the automatic protection on the Canadian National Railways be inter-connected with north Lachine Canal Bridge gate to ensure the north gate on the Canadian National Railways being in the down position before the bridge gate is unlocked for operation under normal conditions.

7. That the protection hereby ordered be installed in accordance with the provisions of General Orders Nos. 607 and 676, insofar as they are not inconsistent with this Order; detail plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

8. That the construction of a subway at the intersection of the double track main line of the Canadian National Railways and 5th Avenue in the Town of Ville St. Pierre, in the Province of Quebec, be, and it is hereby, approved in principle.

9. That, within six months from the date of this Order, the Canadian National Railways submit a general layout plan of the said proposed subway for the approval of an Engineer of the Board.

10. That the Department of Roads of the Province of Quebec, be, and it is hereby, authorized to proceed to construct the overpass of the eastward lane of Highway No. 2 across 5th Avenue aforesaid.

11. That the apportionment of costs of the protection hereby ordered, the overpass, the subway and other work incidental to the construction of the subway be reserved for further consideration and order of the Board."

During that hearing all matters relating to the improvement of the protection at the crossing in question were fully discussed and it was the consensus of opinion of all concerned that only a grade separation in the form of a subway under the tracks of the Canadian National Railways and the Montreal Transportation Commission would be the correct solution to the problem. At that time it was not contemplated that the subway would go under the Lachine Canal or the line of the Canadian Pacific Railway.

As it would require a considerable amount of time and study to prepare plans for the construction of a subway, the Board decided to authorize a change in the form of protection as indicated in the above mentioned Order. It should also be noted that in paragraph 8 of the Order the Board approved, in principle, the construction of a subway and that paragraphs 10 and 11 of that Order read as follows:—

"10. That the Department of Roads of the Province of Quebec, be, and it is hereby, authorized to proceed to construct the overpass of the eastward lane of Highway No. 2 across 5th Avenue aforesaid.

11. That the apportionment of costs of the protection hereby ordered, the overpass, the subway and other work incidental to the construction of the subway be reserved for further consideration and order of the Board."

I will now discuss the reason for paragraph 10 being placed in the Order and the reason for the words "the overpass appearing in paragraph 11. The reasons are as follows:—

Provincial Highway No. 2, a dual lane highway in each direction, at the crossing of Fifth Avenue is parallel to and in close proximity to the double track main line of the Canadian National Railways and at that time was a level crossing.

During the hearing, representatives of the Department of Roads of the Province of Quebec (hereinafter referred to as the "Department") advised that if a subway were constructed it would be necessary to build an overpass to carry the eastbound lane of highway No. 2 across Fifth Avenue and to raise the tracks of the Canadian National main line and those of the Montreal Transportation Commission. The overpass would have to fit in with the plans for a subway and should be considered as a part of the construction of the subway. Moreover, it would add to the protection, safety and convenience of the public using the crossing after the warning signals were changed from wig-wags to automatic short-arm gates.

In addition to the overpass, the plan was to build a road leading off to the left from the eastbound lane of Highway No. 2 down to Fifth Avenue to carry the traffic under the overpass.

In fairness, I think it should be stated that the overpass would be of more value to the users of Highway No. 2 than to the users of Fifth Avenue, for the reason that if the overpass were not built, traffic would be blocked on Highway

No. 2 by traffic on Fifth Avenue, particularly whenever the gates were down while trains were passing over Fifth Avenue, and as an average of sixty trains per day pass over the crossing one can well imagine the traffic congestion which would result, particularly during the rush hours. However, I think it must be conceded that the overpass does add to the protection, safety and convenience of the public using Fifth Avenue. If it were not there, northbound traffic crossing the eastward lane of Highway No. 2 or having to cut in whenever it could with eastbound traffic on Highway No. 2, would undoubtedly be backed up onto the railway tracks and unable to move forward or backward, with a strong possibility of being struck by trains before being able to get clear of the railway tracks.

The Department stated that it was willing to build the overpass at its own expense but was desirous that the cost thereof should be included in the total cost of the subway project.

As we approved in principle the construction of the subway and as we believed that the construction of the overpass was necessary and intended to be a part of an integrated project, and as we also considered, as above stated, that it would add to the protection, safety and convenience of the public using the crossing, we inserted paragraph 10 and the words "the overpass" in paragraph 11 of Order No. 80562.

Mention should be made of the fact that during that hearing Counsel for the Canadian National Railways strenuously objected to having any part of the costs of the overpass assessed against the railways, contending, inter alia, that the construction of the overpass was beyond the jurisdiction of the Board and the railways could not be called upon to make any contribution thereto.

Acting in good faith, the Department built the overpass at a cost of $345,147.57 but up to this date the Canadian National Railways have not made any definite move towards the construction of the proposed subway.

On November 29th, 1955, the Board held a further hearing in the City of Montreal with respect to the apportionment of the costs of the works authorized by Order No. 80562 dated January 7th, 1953.

At that hearing it was the intention of the Board to have a further discussion with regard to the construction of the proposed subway. We attempted to do so but finding that neither of the parties were prepared to deal with the matter, evidence and argument were heard relating only to the apportionment of the above-mentioned costs.

The position of the parties concerned might be summarized as follows. Mr. Methot, Counsel for the Department, stated in part:—

> "As far as we are concerned, as I said, we take the place of the municipality and we are ready to accept the order of the Board but—"
>
> "Commissioner CHASE: That is both the municipalities?"
>
> "Mr. METHOT: Both the municipalities, St. Pierre and LaSalle."
>
> (See page 5141 of the transcript.)

Mr. Methot further took the position that in the apportionment of the costs for the protection ordered, the costs of the overpass should be taken into consideration.

At the same page of the transcript, page 5141, Mr. Boyd, Counsel for the Canadian National Railways stated:—

> "As far as the overpass is concerned, there is very little I can add to what was thoroughly said before the Board in the 1952 December hearing. It was very thoroughly gone into at that time. It was pointed out on behalf of the railway that this was not a structure designed to cross the

railway, it was for the purpose of enabling the highway to cross the highway and it was for highway traffic and nothing to do with the railway that was crossed, and the Board had no jurisdiction to make an Order as far as the railway was concerned with respect to the cost of that overpass. I have no instructions to change the submission that was made to the Board by Mr. Dysart on that occasion, so I think that as far as the overpass is concerned our submission is we have no responsibility in connection with the costs at all."

The Canadian National Railways have not submitted a statement to the Board indicating the amount the railways expended for the construction of the automatic short-arm gates, etc. However, from evidence submitted, it appears that the estimated cost was approximately $22,000.

Counsel for the Canadian Pacific Railway Company, Mr. Spence, submitted two exhibits. Exhibit No. 1 shows the cost of the installation of two flashing light signals and one bell at the C.P.R. Dollard Street crossing, Ville LaSalle, which was in the amount of $4,675.27. This amount was paid by the Canadian Pacific Railway Company and relates only to the cost of the protection on what might be termed the railway property.

Mr. Spence also submitted Exhibit No. 2 showing the cost of installation of two signs: i.e., one "NO LEFT TURN" and one "NO RIGHT TURN" and one automatic bell at the C.P.R. Dollard Street crosisng, Ville LaSalle, Quebec, in the amount of $1,682.89. This bill represents what might be termed the cost outside of the railway property and under ordinary circumstances would be assessed against the municipality of Ville LaSalle.

He also submitted a summary of the two bills which contains a suggestion to the effect that the apportionment of costs should be on the following basis:—

Total from the Railway Grade Crossing Fund, 60%, which would amount to $3,814.90.

Department of Road's share of cost of lights and bell, 25% of $4,675.27, which is $1,168.82.

C.P.R.'s share of the cost of lights and bell, 15% of $4,675.27, which is $701.29.

Department of Road's share of cost of highway signs, etc., 40% of $1,682.89, which is $673.16.

Maintenance of flashing lights and bell: Department of Roads, 50%. C.P.R., 50%.

Maintenance of highway signs and constable's bell: Department of Roads, 100%.

As it is my understanding from what was said during the hearing that the Department is in agreement with the proposed apportionment of costs as relating to the Canadian Pacific Railway Company and Ville LaSalle, the apportionment of those costs will be as above set forth.

In apportioning the costs of the automatic short-arm gates, etc., as relating to the Canadian National Railways and the Department and having regard to the peculiar circumstances in this case, after a grant from the Railway Grade Crossing Fund of 60%, not exceeding the sum of $13,200 is made, I would at this time assess the balance of such costs, including the costs of maintenance, against the Canadian National Railways, for the following reasons and with the following reservations.

As indicated herein, the Department has already spent the sum of $347,147.57 on the construction of the overpass. In my opinion, the overpass has added to the protection, safety and convenience of the public using Fifth Avenue where it crosses the Canadian National Railways and at this time no further assessment should be made against the Department with respect to the installation and maintenance of the automatic short-arm gates, etc.

The overpass was constructed for a two-fold purpose: (1) to be a part of a projected subway (a subway could not be built without it) and (2) to facilitate the movement of traffic on both Highway No. 2 and Fifth Avenue.

The Canadian National Railways object to any part of the cost of the overpass being assessed against them. It is also open to question as to whether a grant could be made from the Railway Grade Crossing Fund with respect thereto.

As above stated, during the 1952 hearing it was the desire of the Department that the cost of the overpass be included in the cost of the subway.

Having regard to all the circumstances, the matter of a grant from the Railway Grade Crossing Fund and/or an assessment against the Canadian National Railways with respect to the cost of the construction of the overpass is reserved for further consideration, if, as and when the subway is actually constructed or, on the other hand, if, in the meantime, the Department is desirous of having a further hearing with the sole purpose of reaching a determination as to whether or not a grant could be made towards the project from the Railway Grade Crossing Fund or an assessment made against the railways, the Board will be glad to set the matter down for hearing at a convenient date.

Order will therefore go to apportion the costs as set forth herein.

H. B. CHASE.

I Agree:

A. SYLVESTRE.

JANUARY 3, 1956.

ORDER No. 87733

TUESDAY, the 3rd day of JANUARY, A.D. 1956.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

In the matter of the apportionment of the costs of the works of protection carried out at the crossing of the Canadian National Railways and Fifth Avenue, in the Town of Ville St. Pierre, at the crossing of the canal bank spur of the Canadian National Railways and Fifth Avenue in the Town of Ville St. Pierre, at the crossing of the railway of the Canadian Pacific Railway Company and Dollard Avenue in the Town of Ville LaSalle in pursuance of the provisions of Order of the Board No. 80562, dated January 7th, 1953, and of the cost of construction by the Department of Roads of the Province of Quebec of an overpass of the eastward lane of Highway No. 2 across Fifth Avenue authorized by the same Order:

Files Nos. 14813
27156.277

Upon hearing the matter at a sitting of the Board held at Montreal, P.Q., on November 29, 1955, in the presence of Counsel for the Department of Roads of the Province of Quebec, Ville LaSalle, Ville St. Pierre, the Canadian Pacific Railway Company, Canadian National Railways and the Montreal Transportation Commission—

1. *Upon* consent of Canadian Pacific Railway Company and the Department of Roads of the Province of Quebec, it is ordered

(1) That $3,814.90, being sixty per cent of the cost of installation of the two manually operated flashing light signals and one bell, one 'NO LEFT TURN' sign at St. Patrick Street west of Dollard Street, one 'NO RIGHT TURN' sign at St. Patrick Street east of Dollard Street and one automatic constable's bell (all of which are referred to in paragraph numbered 3 of Order No. 80563), be paid out of the Railway Grade Crossing Fund.

(2) That the said Department of Roads pay $1,168.82, being twenty-five per cent of the cost of installation of the said flashing lights and bell.

(3) That Canadian Pacific Railway Company pay $701.29, being fifteen per cent of the cost of installation of the said flashing lights and bell.

(4) That the said Department of Roads pay $673.16, being forty per cent of the cost of installation of the said highway signs and constable's bell.

(5) That the cost of maintenance of the said flashing lights and bell be borne and paid in equal shares by Canadian Pacific Railway Company and the said Department of Roads.

(6) That the cost of maintenance of the said highway signs and constable's bell be borne and paid by the said Department of Roads.

2. *It is also ordered* that sixty per cent of the cost of installation of the two automatic short arm gates and flashing light signals and bell, two additional flashing light units on the north signal and two manually operated flashing light signals and one bell, referred to in paragraphs numbered 1 and 2 of Order No. 80562, not exceeding $13,200.00, be paid out of the Railway Grade Crossing Fund, and that the remainder of the said cost of installation and all cost of maintenance of the said works be borne and paid by the Canadian National Railways.

HUGH WARDROPE,
Assistant Chief Commissioner,

En ce qui concerne la répartition du coût des travaux de protection exécutés au croisement du National-Canadien et de la Cinquième avenue, dans Ville-Saint-Pierre, au croisement de l'embranchement du National-Canadien sur la berge du canal et de la Cinquième Avenue dans Ville-Saint-Pierre, au croisement de la voie ferrée du Pacifique-Canadien et de l'avenue Dollard dans Ville-LaSalle conformément aux dispositions de l'ordonnance de la Commission portant le numéro 80562 et la date du 7 janvier 1953, ainsi que du coût de la construction, autorisée par la même ordonnance, par le ministère de la Voirie de la province de Québec d'un passage supérieur de la voie en direction est de la route nº 2 en travers de la Cinquième avenue.

Dossiers nºs 14813
27156.277

Devant:

M. A. SYLVESTRE, C.R., *Commissaire en chef suppléant*
M. H. B. CHASE, C.B.E., *Commissaire*

Entendue à:

Montréal (P.Q.), le 29 novembre 1955

Ont comparu:

M. LÉON MÉTHOT, C.R., pour le ministère de la Voirie de la province de Québec
M. EME. LACROIX, C.R., pour Ville-LaSalle
M GAÉTAN CHABOT, pour Ville-Saint-Pierre
M. K. D. M. SPENCE, C.R., pour le Pacifique-Canadien
M. W. G. BOYD, pour le National-Canadien
M. JEAN LÉTOURNEAU, C.R., pour la Commission du Transport de Montréal.

JUGEMENT

M. CHASE, *Commissaire:*

En 1952, la Cinquième avenue croisait, dans la direction nord-sud: 1º la ligne principale à voie double du National-Canadien; 2º la ligne à voie double de la Commission du transport de Montréal; 3º l'embranchement du National-Canadien construit sur la berge du canal; 4º le pont levant du canal de Lachine; 5º une voie industrielle du Pacifique-Canadien; 6º la rue Saint-Patrice dans Ville-LaSalle; puis, elle rejoignait plus loin l'une des grandes artères menant aux États-Unis. C'était, et c'est encore, une route des plus fréquentées.

Elle comportait deux voies de circulation dans chaque direction, sauf sur le pont du canal de Lachine où elle n'en avait qu'une seule dans chaque sens, ce qui causait et cause encore sur le pont même un embouteillage sérieux, puisque deux files de véhicules se dirigeant vers le sud doivent n'en former qu'une seule pour traverser le pont. En outre, l'embouteillage devient encore pire lorsqu'il faut ouvrir le pont pour laisser passer le trafic du canal.

Dans le sens contraire, c'est-à-dire en allant du sud au nord, après avoir franchi la ligne principale à voie double du National-Canadien, les véhicules en direction nord rencontraient un autre embouteillage sérieux à la route provinciale nº 2. Les véhicules en direction est devaient attendre l'occasion de s'unir avec ceux en direction est de la route nº 2 et les véhicules désirant franchir

la route nº 2 devaient aussi attendre leur chance, ce qui avait fréquemment pour effet de paralyser la circulation routière entre le pont du canal et la route nº 2 et d'exposer ainsi des véhicules à être heurtés par les trains du National-Canadien. A cette époque, le croisement du National-Canadien était protégé par deux pendules avertisseurs et une sonnerie; vers la fin de l'année, à la suite d'une inspection par les fonctionnaires de la Commission, il a été fait à cette dernière une recommandation visant à modifier les dispositifs de protection en installant des barrières automatiques à bras courts munies de feux clignotants, signaux et sonnerie.

A la suite d'une audience tenue à Montréal les 29 et 30 décembre 1952, la Commission a rendu l'ordonnance nº 80562, qui porte la date du 7 janvier 1953 et qui se lit ainsi:

"Il est ordonné

1. Que dans un délai de six mois à compter de la date de la présente Ordonnance les chemins de fer Nationaux du Canada installent et entretiennent deux barrières automatiques à bras courts avec signaux à feux-éclairs et une cloche et qu'ils ajoutent deux unités supplémentaires de signaux à feux-éclairs au signal nord, au lieu des présents pendules avertisseurs et cloche, à l'intersection de leur voie et de la Cinquième avenue, dans Ville St-Pierre, province de Québec.

2. Que dans un délai de six mois à compter de la date de la présente Ordonnance les chemins de fer Nationaux du Canada installent et entretiennent deux signaux à feux-éclairs et une cloche, devant être contrôlés manuellement, à l'intersection de la Cinquième avenue et de leur embranchement dit "Canal Bank Spur", dans la Ville St-Pierre, province de Québec.

3. Que dans un délai de six mois à compter de la date de cette Ordonnance, la compagnie de chemin de fer Pacifique-Canadien installe et entretienne au passage de la rue Dollard et de sa voie, dans Ville St-Pierre, province de Québec:

a) deux signaux à feux-éclairs et une cloche à contrôle manuel,

b) un écriteau "VIRAGE À GAUCHE INTERDIT" (NO LEFT TURN) sur la rue St-Patrice, à l'ouest de la rue Dollard,

c) un écriteau "VIRAGE À DROITE INTERDIT" (NO RIGHT TURN) sur la rue St-Patrice, à l'est de la rue Dollard et

d) une cloche automatique ne devant être utilisée que lorsque l'agent de circulation est de service à l'intersection des rues Dollard et St-Patrice.

4. Que les chemins de fer Nationaux du Canada fournissent et installent le câble qui doit être posé entre leurs voies et le pont du canal Lachine et entre leurs voies et la voie industrielle de la compagnie de chemin de fer Pacifique-Canadien, aux fins de relier les contrôles nécessaires entre ces deux points.

5. Que tous les dispositifs de protection soient reliés de telle façon que la barrière nord au passage de la voie principale des chemins de fer Nationaux du Canada soit abaissée avant que les dispositifs de protection aux autres endroits commencent à fonctionner.

6. Que les dispositifs automatiques de protection au passage des chemins de fer Nationaux du Canada soient reliés à la barrière nord du pont du canal de Lachine afin de faire en sorte que la barrière nord des chemins de fer Nationaux du Canada soit abaissée avant que la barrière du pont soit déclenchée et libre de fonctionner sous conditions normales.

7. Que les dispositifs de protection par les présentes ordonnés soient installés conformément aux dispositions des Ordonnances générales nos 607 et 676 en autant qu'elles ne soient pas en désaccord avec cette ordonnance; que des plans détaillés indiquant la disposition desdits dispositifs soient soumis pour l'approbation d'un ingénieur de la Commission.

8. Que la construction d'un tunnel à l'intersection de la voie principale double des chemins de fer Nationaux du Canada et de la Cinquième avenue, dans Ville St-Pierre, province de Québec, soit par les présentes approuvée en principe.

9. Que dans un délai de six mois à compter de la date de la présente Ordonnance, les chemins de fer Nationaux du Canada soumettent un plan général dudit tunnel projeté pour l'approbation d'un ingénieur de la Commission.

10. Que le ministère de la Voirie de la province de Québec soit par les présentes autorisé à procéder à la construction du passage supérieur de la piste routière allant vers l'est, de la Route no 2, à travers ladite Cinquième avenue.

11. Que la question de la répartition des frais d'installation des dispositifs de protection par les présentes ordonnés ainsi que des frais de construction du passage supérieur et du tunnel et de tous autres travaux à encourir en rapport avec la construction dudit tunnel soit réservés pour plus ample considération et Ordonnance de la Commission.

Au cours de cette audience, toutes les questions relatives à l'amélioration des dispositifs de protection au croisement en question ont été étudiées à fond et, de l'avis commun de tous les intéressés, seul un étagement des voies sous la forme d'un passage inférieur sous les voies ferrées du National-Canadien et de la Commission du transport de Montréal donnerait une solution satisfaisante. A cette époque, on n'avait pas l'intention de faire passer le passage inférieur sous le canal de Lachine ou sous la ligne du Pacifique-Canadien.

Étant donné que la préparation des plans de construction d'un passage inférieur nécessite un temps et une étude considérables, la Commission a décidé d'autoriser le changement du mode de protection, ainsi que l'indique l'ordonnance ci-dessus mentionnée. Il y a lieu de remarquer également qu'à l'article 8 de l'ordonnance, la Commission approuve en principe la construction d'un passage inférieur et que les articles 10 et 11 se lisent comme suit:

10. Que le ministère de la Voirie de la province de Québec soit par les présentes autorisé à procéder à la construction du passage supérieur de la piste routière allant vers l'est, de la Route no 2, à travers ladite Cinquième avenue.

11. Que la question de la répartition des frais d'installation des dispositifs de protection par les présentes ordonnés ainsi que des frais de construction du passage supérieur et du tunnel et de tous autres travaux à encourir en rapport avec la construction dudit tunnel soit réservée pour plus ample considération et Ordonnance de la Commission.

J'expliquerai maintenant pourquoi l'article 10 apparaît dans l'ordonnance et les mots "passage supérieur" sont inclus dans l'article 11.

La route provinciale no 2, à double voie dans chaque direction, suit parallèlement et de très près la ligne principale à double voie du National-Canadien à l'intersection de la Cinquième avenue où il y avait alors un passage à niveau.

Au cours de l'audience, les représentants du ministère de la Voirie de la province de Québec (ci-après désignés par les mots "le Ministère") ont signalé qu'advenant la construction d'un passage inférieur, il serait nécessaire de faire passer la voie ouest-est de la route nº 2 sur un passage supérieur enjambant la Cinquième avenue et de surélever les voies ferrées de la ligne principale du National-Canadien et celles de la Commission du transport de Montréal. Le passage supérieur devra cadrer avec les plans du passage inférieur et sa construction être considérée comme faisant partie de celle du passage inférieur. De plus, l'installation de barrières à bras courts en remplacement des pendules augmentera la protection, la sécurité et la commodité du public qui franchit les voies ferrées.

Le plan comprend aussi la construction d'un tronçon de route se détachant du côté gauche de la voie ouest-est de la route nº 2 et descendant vers la Cinquième avenue pour donner accès sous le passage supérieur.

Il faut dire, en toute justice, que les usagers de la route nº 2 tireront plus d'avantages du passage supérieur que ceux de la Cinquième avenue, car, si ce passage supérieur n'était pas construit, c'est sur la route nº 2 que la circulation serait entravée par le courant de la Cinquième avenue, particulièrement lorsque les barrières sont abaissées au passage des trains au-dessus de la Cinquième avenue, et on peut facilement imaginer l'embouteillage aux heures d'affluence en un tel endroit où passent, en moyenne, soixante trains par jour. Admettons cependant que le passage supérieur augmente réellement la protection, la sécurité et la commodité des usagers de la Cinquième avenue qui, à défaut de ce passage, pourraient se voir repoussés et immobilisés sur les voies ferrées lorsque, allant vers le nord, ils tentent de franchir la voie ouest-est de la route nº 2 ou de s'introduire, si possible, dans le courant en direction est, auquel cas ils seraient exposés à être frappés par un train avant d'avoir pu s'écarter de la voie ferrée.

Le Ministère s'est déclaré prêt à construire le passage supérieur à ses frais, mais il a exprimé le désir que le coût soit inclus dans le coût total du projet de construction du passage inférieur.

Ayant approuvé en principe la construction du passage inférieur, croyant nécessaire la construction du passage supérieur en tant que partie d'un projet d'ensemble et estimant, comme il est dit ci-dessus, que la protection, la sécurité et la commodité du public au passage de la voie ferrée serait ainsi augmentée, nous avons inséré dans l'ordonnance nº 80562 l'article 10 et dans l'article 11 de ladite ordonnance, les mots "passage supérieur".

Il y a lieu de mentionner qu'au cours de l'audience l'avocat du National-Canadien s'est opposé énergiquement à ce qu'une part quelconque des frais du passage supérieur retombe sur les chemins de fer; il a soutenu, entre autres, choses, que la construction du passage supérieur dépasse la compétence de la Commission et que les chemins de fer ne peuvent être appelés à y prendre part.

En toute bonne foi, le Ministère a construit le passage supérieur au coût de $345,147.57, mais le National-Canadien n'a encore pris aucune mesure précise en vue de la construction du passage inférieur projeté.

Le 29 novembre 1955, la Commission a tenu une nouvelle audience dans la ville de Montréal relativement à la répartition du coût des travaux autorisés par l'ordonnance nº 80562 du 7 janvier 1953.

La Commission comptait que la question de la construction du passage inférieur projeté serait débattue de nouveau au cours de cette audience. Nous avons essayé de traiter cette question mais comme aucune des parties n'était prête à le faire, les dépositions et plaidoyers entendus ont porté uniquement sur la répartition des frais susmentionnés.

Voici, en bref, la position des parties en cause. M. Méthot, avocat du ministère, a déclaré, entre autres:

"As far as we are concerned, as I said, we take the place of the municipality and we are ready to accept the order of the Board but—"

"Commissioner CHASE: That is both the municipalities?"

"Mr. METHOT: Both the municipalities, St. Pierre and LaSalle."

(Voir page 5141 de la transcription.)

M. Méthot est d'avis que, dans la répartition des frais relatifs à la protection prescrite par l'ordonnance, il y aurait lieu de tenir compte des frais du passage supérieur.

A la même page de la transcription, page 5141, M. Boyd, avocat du National-Canadien, déclare:

"As far as the overpass is concerned, there is very little I can add to what was thoroughly said before the Board in the 1952 December hearing. It was very thoroughly gone into at that time. It was pointed out on behalf of the railway that this was not a structure designed to cross the railway, it was for the purpose of enabling the highway to cross the highway and it was for highway traffic and nothing to do with the railway that was crossed, and the Board had no jurisdiction to make an Order as far as the railway was concerned with respect to the cost of that overpass. I have no instructions to change the submission that was made to the Board by Mr. Dysart on that occasion, so I think that as far as the overpass is concerned our submission is we have no responsibility in connection with the costs at all."

Le National-Canadien n'a pas présenté à la Commission de déclaration indiquant la somme que les chemins de fer ont consacrée à la construction des barrières automatiques à bras courts, etc.; cependant, la preuve entendue a laissé voir que le coût estimatif a été d'environ $22,000.

L'avocat de la Compagnie de chemin de fer du Pacifique-Canadien, M. Spence, a présenté deux pièces. La pièce nº 1 donne le coût de l'installation de deux feux clignotants et d'une cloche au passage à niveau du Pacifique-Canadien, rue Dollard, Ville-LaSalle, soit la somme de $4,675.27. Cette somme a été payée par le Pacifique-Canadien et représente uniquement le coût de la protection sur ce qu'on pourrait appeler la propriété de chemin de fer.

M. Spence a aussi présenté la pièce nº 2 qui donne le coût de l'installation de deux signaux, c'est-à-dire un signal "VIRAGE À GAUCHE INTERDIT" (NO LEFT TURN) et un signal "VIRAGE À DROITE INTERDIT" (NO RIGHT TURN), et d'une cloche automatique au passage à niveau du Pacifique-Canadien, rue Dollard, Ville-LaSalle (P.Q.), soit la somme de $1,682.89. Cette facture représente ce qu'on pourrait appeler le coût de la protection à l'extérieur de la propriété du chemin de fer; dans les circonstances ordinaires, elle serait imputée sur la municipalité de Ville-LaSalle.

Il a également présenté un sommaire des deux factures qui laisse entendre que la répartition du coût devrait se fonder sur la base suivante:

Montant total à payer par la Caisse des passages à niveau, 60 p. 100, soit $3,814.90.

Contribution du Ministère de la Voirie pour le coût des feux et de la sonnerie, 25 p. 100 de $4,675.27, soit $1,168.82.

Contribution du Pacifique-Canadien pour le coût des feux et de la sonnerie, 15 p. 100 de $4,675.27, soit $701.29.

Contribution du ministère de la Voirie pour le coût des signaux routiers, etc., 40 p. 100 de $1,682.89, soit $673.16.

Entretien des feux clignotants et de la sonnerie: ministère de la Voirie, 50 p. 100; Pacifique-Canadien, 50 p. 100.

Entretien des signaux routiers et de la sonnerie de l'agent de circulation: ministère de la Voirie, 100 p. 100.

Comme je conclus de ce qui a été dit au cours de l'audience que le Ministère approuve le projet de répartition du coût entre le Pacifique-Canadien et Ville-LaSalle, la répartition se fera tel qu'il est indiqué ci-dessus.

Au sujet de la répartition du coût des barrières automatiques à bras courts, etc., entre le National-Canadien et le Ministère et eu égard aux circonstances particulières au présent cas, j'imputerais sur le National-Canadien, après versement de la part de la Caisse des passages à niveau (60 p. 100), jusqu'à concurrence de $13,200, le solde des frais, y compris les frais d'entretien, pour les raisons et sous les réserves suivantes:

Tel qu'il est indiqué ici, le Ministère a déjà dépensé la somme de $347,147.57 pour la construction du passage supérieur. A mon avis, le passage supérieur ayant ajouté à la protection, à la sécurité et à la commodité du public qui utilise la Cinquième avenue à l'endroit où elle croise les voies ferrées du National-Canadien, aucune autre somme ne devrait à l'heure actuelle être imputée sur le Ministère à l'égard de l'installation et de l'entretien des barrières automatiques à bras courts, etc.

Le passage supérieur a été construit pour répondre à un double but: 1° faire partie d'un projet de passage inférieur (sans quoi la construction d'un passage inférieur était impossible); 2° faciliter la circulation tant sur la route n° 2 que sur la Cinquième avenue.

Le National-Canadien s'oppose à ce qu'une partie quelconque du coût du passage supérieur lui soit imputée. Il est douteux aussi que la Caisse des passages à niveau puisse accorder une subvention à cet égard.

Ainsi qu'il est mentionné plus haut, le Ministère avait exprimé le désir, durant l'audience de 1952, que le coût du passage supérieur soit compris dans celui du passage inférieur.

Compte tenu de toutes les circonstances, la question d'une subvention prise sur la Caisse des passages à niveau et (ou) d'une imputation sur le National-Canadien pour le coût de la construction du passage supérieur sera examinée plus tard quand le passage inférieur sera réellement construit; d'autre part, si le Ministère désire dans l'entretemps la tenue d'une autre audience uniquement dans le but de décider si la Caisse des passages à niveau pourrait ou non accorder une subvention pour le projet ou s'il devrait être faite une imputation sur les chemins de fer, la Commission sera heureuse d'en arrêter la date.

Par conséquent, il sera rendu une ordonnance qui répartira le coût établi au présent jugement.

H. B. CHASE

Je suis d'accord:
(Signature) A. SYLVESTRE.

le 3 JANVIER 1956.

ORDONNANCE Nº 87733

Le MARDI 3 JANVIER 1956.

A. SYLVESTRE, C.R., *Commissaire en chef adjoint*
H. B. CHASE, C.B.E., *Commissaire*

Relative à la répartition du coût des travaux de protection exécutés au croisement du National-Canadien et de la Cinquième avenue, dans Ville-Saint-Pierre, au croisement de l'embranchement du National-Canadien sur la berge du canal et de la Cinquième avenue dans Ville-Saint-Pierre, au croisement de la voie ferrée du Pacifique-Canadien et de l'avenue Dollard dans Ville-LaSalle conformément aux dispositions de l'ordonnance de la Commission portant le numéro 80562 et la date du 7 janvier 1953, ainsi que le coût de la construction, autorisée par la même ordonnance, par le ministère de la Voirie de la province de Québec d'un passage supérieur de la voie en direction est de la route nº 2 en travers de la Cinquième avenue:

Dossiers nos 14813
27156.277

Après audition de la requête à l'audience tenue par la Commission dans la ville de Montréal, province de Québec, le 29 novembre 1955, en présence des avocats du ministère de la Voirie de la province de Québec, de Ville-LaSalle, de Ville-Saint-Pierre, du Pacifique-Canadien, du National-Canadien et de la Commission du transport de Montréal:

1. Du consentement du Pacifique-Canadien et du ministère de la Voirie de la province de Québec, il est ordonné

(1) Que le montant de $3,814.90, soit 60 p. 100 du coût d'installation de deux feux clignotants à commande manuelle et d'une sonnerie, d'un écriteau "VIRAGE À GAUCHE INTERDIT" (NO LEFT TURN) à la rue Saint-Patrice à l'ouest de la rue Dollard, d'un écriteau "VIRAGE À DROITE INTERDIT" (NO RIGHT TURN) à la rue Saint-Patrice à l'est de la rue Dollard et d'une sonnerie d'agent de circulation (le tout mentionné à l'article 3 de l'ordonnance nº 80562), soit acquitté par la Caisse des passages à niveau.

(2) Que ledit ministère de la Voirie acquitte le montant de $1,168.82 soit 25 p. 100 du coût d'installation desdits feux clignotants et de ladite sonnerie.

(3) Que le Pacifique-Canadien acquitte le montant de $701.29, soit 15 p. 100 du coût d'installation desdits feux clignotants et de ladite sonnerie.

(4) Que ledit ministère de la Voirie acquitte le montant de $673.16, soit 40 p. 100 du coût d'installation desdits écriteaux et de ladite sonnerie d'agent de circulation.

(5) Que les frais d'entretien desdits feux clignotants et de ladite sonnerie soient, à parts égales, à la charge du Pacifique-Canadien et dudit ministère de la Voirie.

(6) Que les frais d'entretien desdits écriteaux et de ladite sonnerie d'agent de circulation soient à la charge dudit ministère de la Voirie.

2. *Il est également ordonné* que 60 p. 100 du coût d'installation des deux barrières automatiques à bras courts et des feux clignotants et de la sonnerie, des deux feux clignotants supplémentaires du signal nord et des deux feux clignotants à commande manuelle et d'une sonnerie, mentionnés aux articles 1 et 2 de l'ordonnance nº 80562, jusqu'à concurrence de $13,200, soient acquittés par la Caisse des passages à niveau et que le solde dudit coût d'installation et tous les frais d'entretien desdits ouvrages soient à la charge du National-Canadien.

Le Commissaire en chef adjoint de la
Commission des Transports du Canada,
HUGH WARDROPE.

In the matter of the application of the Town of Victoriaville for an Order of the Board authorizing the construction of a viaduct between Gamache and Carignan Boulevards with a view to eliminating the Octave Street level crossing, and apportioning the cost of the said construction after a grant is made from the Railway Grade Crossing Fund.

File No. 32362

Heard at:

VICTORIAVILLE, P.Q., on the 13th day of DECEMBER, 1955.

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

Mr. W. G. BOYD, Associate Commission Counsel, Mr. E. E. ANGERS, Solicitor, for Canadian National Railways.

Mr. GERMAIN LACOURCIÈRE, Solicitor, Town of Victoriaville, P.Q.

Mr. F. A. BURGESS, Solicitor, Mr. H. FISET, Q.C., Solicitor, for Bell Telephone Co. of Canada.

JUDGMENT

SYLVESTRE, *Deputy Chief Commissioner:*

The Applicant, the Town of Victoriaville, applied for the authority to build a subway at a point located between Gamache and Carignan Boulevards for the purpose of eliminating the level crossing on Octave Street.

This project will result in removing from the main street, called Notre Dame, a large portion of the traffic and especially the trucks which have, at the present time, only that street to use. Furthermore, the mayor has stated that as soon as the project involved in this case has been carried out, posters will be installed at both entrances of the Town indicating to the truck drivers the route to follow, and the Town will see to it that its instructions are complied with.

The protection at Notre Dame Street at present consists of gates operated by watchmen, and although the railways have not yet made an application to replace these gates with flashing light signals and short arm gates, counsel for the railways stated at the hearing that it was the railways' intention to proceed with such an application, and the Town declared that it would not oppose it. We propose to consider these facts when time comes to apportion the cost of the change at Notre Dame Street.

At the hearing the Bell Telephone Company of Canada called a witness to establish that the proposed work will necessitate the removal of a few telephones poles at an estimated cost of $500.00 and made submissions as to how that cost should be borne. In this connection I point out that at the request of the Minister of Transport made under section 36 of the Railway Act the Board is presently reviewing the rule of practice that it has followed in making orders as to the cost of removal of plant of public utilities where grade separation is ordered. In the present case the cost of removal of the telephone poles is comparatively small and under all the circumstances we will reserve the matter of that cost for further consideration and order, without thereby laying down a general policy to be followed in other cases where removal of public utility plant is concerned. In connection with the making of arrangements by the Town of Victoriaville for financing its share of the cost of construction of the subway the Town should not overlook the possibility that the rule above referred to may be modified as a result of the review, in which event the Town might eventually have to bear some or all of the cost of the removal of the Bell Telephone poles.

It is obvious that the traffic movement will be greatly improved by the carrying out of this project and that considerable benefit will thereby accrue to the public. I therefore grant the application.

The cost of construction of this subway is estimated at $224,000.00 and the contribution from the Railway Grade Crossing Fund will amount to 60% of the said cost not exceeding, however, the sum of $134,400.00.

Considering all the circumstances in the present case, I consider it fair and reasonable to fix the railway's contribution at $15,000.00. The remainder of the said cost of construction to be assumed by the Town of Victoriaville, the matter of the cost of removing the Bell Telephone poles being reserved as mentioned above.

I am of the opinion that the maintenance cost should be apportioned as follows: the cost of maintenance of the track structure and 50% of the cost of maintenance of the subway to be assumed by the railways and the remainder by the Town.

An Order will be made accordingly.

A. SYLVESTRE.

OTTAWA, January 3, 1956.

I concur:

H. B. CHASE.

ORDER No. 87815

MONDAY, the 16th day of JANUARY, A.D. 1956.

HUGH WARDROPE, *Assistant Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

In the matter of the application of the Town of Victoriaville, in the Province of Quebec, for an Order authorizing the construction of a viaduct between Gamache and Carignan Boulevards with a view to eliminating the Octave Street level crossing, and apportioning the cost of the said construction after a grant is made from the Railway Grade Crossing Fund.

File No. 32362

Upon hearing the matter at a sitting of the Board held in Victoriaville, P.Q., on the 13th day of December, 1955, in the presence of Counsel for the Canadian National Railways, the Town of Victoriaville, P.Q., and The Bell Telephone Company of Canada—

It is ordered

1. That the Town of Victoriaville, in the Province of Quebec, be, and it is hereby, authorized to extend Mercier Street across the right of way of the Canadian National Railways by means of a subway at mileage 55·64 Danville Subdivision, as shown on General Layout Plan No. C-16356, dated June 3rd, 1955.

2. That the said subway be constructed in accordance with the requirements of General Order No. 589; detailed plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

3. That sixty per cent of the cost of construction of the said subway, not exceeding, however, the sum of $134,400.00, be paid out of the Railway Grade Crossing Fund, $15,000.00 by the Canadian National Railways and the remainder of the cost of construction of the said subway by the Town of Victoriaville.

4. That the cost of maintenance of the track structure and fifty per cent of the cost of maintenance of the subway proper be borne and paid by the Canadian National Railways, and the remainder of the cost of maintenance of the subway be borne and paid by the Town of Victoriaville.

5. That the cost of removal of the telephone poles of The Bell Telephone Company be reserved for further consideration and order of the Board.

6. That the Canadian National Railways close, within the limits of their right of way, Octave Street and remove the automatic flashing lights and bell at the said crossing as soon as the subway at Mercier Street is opened to highway traffic.

HUGH WARDROPE,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

In re requête de la ville de Victoriaville, P.Q., relativement à la construction d'un passage inférieur à un endroit entre les boulevards Gamache et Carignan, à Victoriaville, en vue de supprimer le passage à niveau de la rue Octave, et la question de la répartition du reliquat du coût de construction dudit passage, après déduction d'une contribution à même la Caisse des passages à niveau.

Dossier nº 32362

Cause entendue à

Victoriaville, P.Q., le 13e jour de décembre 1955.

Devant:

A. SYLVESTRE, C.R., Commissaire en chef suppléant.

H. B. CHASE, C.B.E., Commissaire.

Comparutions:

M. W. G. BOYD, Avocat associé auprès de la Commission, M. E. E. ANGERS, Procureur, pour les Chemins de fer Nationaux du Canada.

M. GERMAIN LACOURCIÈRE, Procureur, Ville de Victoriaville, P.Q.

M. F. A. BURGESS, Procureur, M. H. FISET, C.R., Procureur, pour la Compagnie du Téléphone Bell du Canada.

JUGEMENT

SYLVESTRE, *Commissaire en chef suppléant:*

La requérante, la ville de Victoriaville, demande la permission de construire un passage inférieur à un endroit entre les boulevards Gamache et Carignan, en vue de supprimer le passage à niveau de la rue Octave.

Cette construction aura pour effet de faire disparaître de la rue principale, appelée Notre-Dame, une grande partie du trafic et spécialement les camions dont le seul chemin actuellement est ladite rue. De plus, le maire a ajouté que dès que ces travaux seront terminés, des affiches aux deux entrées de la ville indiqueront aux camions la route à suivre et la ville verra à ce que ces directives soient suivies.

La protection à la rue Notre-Dame consiste actuellement en des barrières opérées par un gardien et quoiqu'il n'y ait pas encore de la part du chemin de fer une requête pour remplacer ce genre de barrières par des signaux à feux-éclairs et des barrières automatiques à bras courts, à l'audience le procureur du chemin de fer nous a déclaré que c'était leur intention de le faire et la ville a ajouté que pour sa part elle ne s'y objecterait pas. Nous avons l'intention de prendre ce fait en considération quand il s'agira de répartir le coût du changement à la rue Notre-Dame.

A l'audience la Compagnie du Téléphone Bell du Canada a fait comparaître un témoin pour établir que ces travaux nécessiteront le déplacement de quelques poteaux au coût de $500.00 et a suggéré de quelle façon ces frais soient répartis. A ce sujet, je dois faire remarquer qu'à la demande du Ministre des Transports faite en vertu de l'article 36 de la Loi des chemins de fer, la Commission est actuellement à reviser la pratique qu'elle a suivie en émettant des ordonnances quant au coût de déplacement de l'équipement des utilités publiques quand un étagement des passages est ordonné. Dans le présent cas le coût du déplacement des poteaux de téléphone est peu considérable et sous ces circonstances je réserve cette question de coût pour plus ample étude, sans toutefois décréter une politique générale à être suivie dans

d'autres cas où le déplacement d'équipement de compagnies d'utilités publiques sera concerné. Au sujet des arrangements à être faits par la ville de Victoriaville pour financer sa part du coût de construction de ce passage inférieur, la ville ne doit pas oublier la possibilité que la pratique ci-dessus mentionnée puisse être changée, comme résultat de son étude, et alors la ville pourrait être appelée à payer en tout ou en partie le coût du déplacement des poteaux de la Compagnie du Téléphone Bell.

Il est clair que la circulation sera grandement améliorée et que le public en retirera un avantage considérable. En conséquence la présente requête est accordée.

Le coût de construction de ce passage inférieur est évalué à $224,000.00 et la contribution à même la Caisse des passages à niveau s'élève à 60% n'excédant pas, toutefois, la somme de $134,400.00.

Considérant toutes les circonstances dans le cas présent, je considère qu'il est juste et raisonnable de fixer la contribution des Chemins de fer à $15,000.00 et la balance à charge de la ville de Victoriaville, la question du coût du déplacement des poteaux de la Compagnie du Téléphone Bell étant réservée tel que ci-dessus mentionné.

Je suis d'avis que les frais de maintien se divisent comme suit: le coût du maintien de la structure de la voie et 50% du maintien de la structure du passage inférieur supportés et payés par le chemin de fer et tous les autres frais d'entretien par la ville.

Ordonnance à être émise.

A. SYLVESTRE.

OTTAWA, le 3 janvier 1956.

J'agrée:

H. B. CHASE.

ORDONNANCE N° 87815

LUNDI, le 16e jour de janvier, A.D. 1956.

HUGH WARDROPE, *Commissaire en chef adjoint*
A. SYLVESTRE, C.R., *Commissaire en chef suppléant*
H. B. CHASE, C.B.E., *Commissaire*

En ce qui concerne la requête de la ville de Victoriaville, province de Québec demandant une ordonnance autorisant la construction d'un viaduc entre les boulevards Gamache et Carignan dans le but d'éliminer le passage à niveau de la rue Octave, et répartissant le coût de ladite construction après qu'un octroi aura été fait à même la Caisse des passages à niveau:

Dossier n° 32362

Après avoir entendu la question à une audience de la Commission tenue à Victoriaville, P.Q., le 13e jour de décembre 1955, en présence de l'avocat des chemins de fer Nationaux, de la ville de Victoriaville et de la Compagnie de téléphone Bell du Canada—

Il est ordonné

1. Que la ville de Victoriaville, province de Québec, soit et est par les présentes autorisée à prolonger la rue Mercier à travers l'emprise des chemins de fer Nationaux au moyen d'un passage inférieur au point miliaire 55·64 subdivision de Danville, comme il est indiqué sur le plan général n° C-16356 du 3 juin 1955.

2. Que ledit passage inférieur soit construit en conformité des exigences de l'Ordonnance générale n° 589; et que des plans détaillés indiquant la disposition de ce dernier soient soumis à l'approbation des ingénieurs de la Commission.

3. Que soixante pour cent du coût de la construction dudit passage inférieur mais n'excédant pas toutefois la somme de $134,400 soit payé à même la Caisse des passages à niveau, $15,000 par les chemins de fer Nationaux et le reliquat du coût de la construction dudit passage inférieur par la ville de Victoriaville.

4. Que le coût de l'entretien de la voie et cinquante pour cent du coût d'entretien du passage inférieur proprement dit soit supporté et payé par les chemins de fer Nationaux, et le reliquat du coût d'entretien du passage inférieur soit supporté et payé par la ville de Victoriaville.

5. Que le coût d'enlèvement des poteaux de téléphone de la compagnie de téléphone Bell soit réservé pour être pris en plus ample considération et pour l'émission d'une ordonnance de la Commission.

6. Que les chemins de fer Nationaux ferment, dans les limites de leur emprise, la rue Octave et déplacent les feux-éclairs automatiques et la sonnerie audit passage à niveau aussitôt que le passage inférieur à la rue Mercier sera ouvert au trafic routier.

Le commissaire en chef adjoint,
HUGH WARDROPE.

ORDER No. 87941

In the matter of the application of Charles Sanders, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076·45

MONDAY, the 30th day of January, A.D. 1956.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 310 be issued to the Applicant licensing for the period of one year commencing February 9, 1956, the following ships to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and North thereof:

Vessel Name	*Official Registry No.*	*Gross Tonnage*
S.T. Barge 102	171,641	141
S.T. Barge 103	173,702	141
S.T. Barge 150	157,161	160

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, DECEMBER, 1955

Railway Accidents	246	Killed	8	Injured	316
Level Crossing Accidents.....	97	Killed	34	Injured	132
Total.....	343		42		448

	Killed	*Injured*
Passengers	—	91
Employees	4	212
Others	38	145
Total.....	42	448

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed	*Injured*	
		PRINCE EDWARD ISLAND
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: P.E.I. 18-454.
		NOVA SCOTIA
—	1	Automobile ran into side of train. Licence: N.S. 44921.
		NEW BRUNSWICK
—	1	Automobile ran into side of train. Licence: N.B. 29-023.
—	1	Automobile ran into side of train. Licence: N.B. 36945.
—	1	Automobile ran into side of train. Licence: N.B. 7-437.
		QUEBEC
—	6	Two automobiles collided on crossing and were struck by train. Licences: Que. T-9778 and Que. 232-236.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. F-32503.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. F-65030.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 414-419.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-64339.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Que. F-87032.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 341-439.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 316-659.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 373-811.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 372-838.
—	1	Automobile ran into side of train. Licence: Ont. 901-525.
—	1	Automobile skidded into side of train. Licence: Que. 368-158.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 502-775.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-14503.
4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 116-899.

QUEBEC—*Conc.*

Killed	*Injured*	
—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 58-638.
—	1	Automobile ran into side of train. Licence: Que. 70-248.
3	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 74-700.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-62400.
—	2	Auto truck ran into side of train. Licence: Que. N-11088.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-78251.
—	1	Automobile ran into side of train. Licence: Que. 211-062.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. FA-7267.

ONTARIO

1	—	Auto truck ran into side of train. Licence: Ont. 55638-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. L-103588.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-58122.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 461-464.
—	3	Automobile ran into side of train. Licence: Ont. 743-859.
—	1	Automobile stalled on crossing and was struck by train. Licence: Ont. 810-233.
—	6	School Bus ran into side of train. Licence: Ont. 5-769-A.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 64-990-B.
—	2	Auto truck ran into side of train. Licence: Ont. 45-511-C.
—	2	Automobile ran into side of train. Licence: Ont. 674-606.
—	1	Automobile ran into side of train. Licence: Ont. A-28-449.
—	1	Automobile ran into side of train. Licence: Ont. B-99093.
—	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 17789-C.
1	3	Automobile ran into side of train. Licence: Ont. A-90889.
4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 246-215.
—	1	Automobile ran into side of train. Licence: Ont. A-20310.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-41-895.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-25877.
1	2	Automobile ran into side of train. Licence: Ont. 27780-C.
—	2	Automobile ran into side of train. Licence: Ont. A-93430.
—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Ont. 451-128.
—	1	Automobile skidded into side of train. Licence: Ont. B-73-52.
—	1	Auto truck ran into side of train. Licence: Ont. 23-223-C.
—	2	Auto truck ran into side of train. Licence: Ont. 69969-A.
1	1	Automobile ran into side of train. Licence: Ont. 991-287.
—	1	Auto truck ran into side of train. Licence: Ont. 39-735-C.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. B-63709.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 39985-C.
—	1	Automobile ran into side of train. Licence: Ont. 922-533.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 672-436.
—	1	Auto truck ran into side of train. Licence: Ont. 19875-C.
—	3	Automobile ran into side of train. Licence: Ont. F-18866.
—	1	Automobile ran into side of train. Licence: Ont. 119-026.

ONTARIO—*Conc.*

Killed	*Injured*	
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 881-953.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 977-791.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 832-730.
—	2	Automobile ran into side of train. Licence: B.C. 178-474.
—	2	Automobile ran into side of train. Licence: Ont. 688-387.
—	1	Auto truck ran into side of train. Licence: Ont. 92375-A.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 562-026.
—	1	Tractor trailer ran into side of train. Licence: Ont. 7-8829.
—	1	Automobile ran into side of train. Licence: Ont. 872-310.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 360-216.

MANITOBA

—	1	Automobile ran into side of train. Licence not given.
—	6	Automobile ran into side of train. Licence not given.
—	2	Automobile ran into side of train. Licence: Man. 4-5-943.
1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-9099.

SASKATCHEWAN

—	2	Auto truck ran into side of train. Licence not given.
—	2	Automobile ran into side of train. Licence: Sask. 179-499.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-12111.
1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. C-3268.
—	3	Automobile ran into side of train. Licence: Sask. 23954.
—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-33143.
—	1	Automobile ran into side of train. Licence: Sask. C-2512.
—	2	Auto truck skidded into side of train. Licence: Sask. C-17319.

ALBERTA

—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. EV-872.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-149222.
—	1	Automobile ran into side of train. Licence: Alta. BT-429.
—	1	Automobile ran into side of train. Licence: Alta. SR-784.
—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-38189.
—	1	Automobile ran into side of train. Licence: Alta. BW-931.
—	1	Automobile ran into side of train. Licence: Alta. LX-215.
—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. EV-733.

BRITISH COLUMBIA

2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 61-749.
1	—	Pedestrian slipped on ice at crossing and fell under train.
—	1	Automobile ran into side of Rail Diesel Car. Licence: B.C. 230-290.

Of the 97 accidents at highway crossings, 81 occurred at unprotected crossings, and 16 at protected crossings. 40 occurred after sunrise and 57 after sunset.

OTTAWA, Ontario, February 2, 1956.

SUMMARY OF ORDERS ISSUED BY THE BOARD

87881 Jan. 24—Authorizing the C.N.R. to add a signal indication at the interlocker at the crossing of their railway and the C.P.R. at Carlyle, Sask.

87882 Jan. 24—In the matter of approval of plan submitted to the C.P.R. by Imperial Oil Limited showing proposed location of storage tank at Climax, Saskatchewan.

87883 Jan. 24—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing proposed location of storage tanks, etc. at La Malbaie, Quebec.

87884 Jan. 24—In the matter of approval of plan submitted to the C.P.R. by Shell Oil Compay of Canada Limited, showing proposed location of additional tank and unloading point at Ste. Agathe, Quebec.

87885 Jan. 25—Permitting removal of slow order at C.N.R. crossing of Litchfield Avenue, Athabasca, Alberta.

87886 Jan. 25—Permitting removal of slow order at C.P.R. crossing at mileage 90·06 Shuswap Subdivision, British Columbia.

87887 Jan. 25—Permitting the removal of slow order at C.N.R. crossing west of station at Driftwood, Ontario.

87888 Jan. 25—Permitting the removal of slow order at C.N.R. crossing east of the shelter station at Traveller's Rest, Prince Edward Island.

87889 Jan. 25—Permitting the removal of slow order at the crossing of Robinson Street and the Montreal and Southern Counties Railway Company west of Granby Station, Quebec.

87890 Jan. 25—Permitting the removal of slow order at C.N.R. crossing west of station, St. Hubert, Quebec.

87891 Jan. 25—In the matter of application of The Toronto, Hamilton and Buffalo Railway Company for an Order extending the time within which it is required by Order No. 86822 to install automatic protection at the crossing of Rifle Range Road, Hamilton, Ontario.

87892 Jan. 25—Permitting the removal of slow order at C.N.R. crossing east of station at Hearst, Ontario.

87893 Jan. 25—Permitting removal of slow order at C.N.R. crossing and the intersection of Chaning Drive and No. 10 Highway where Third Avenue leads into the Town of Flin Flon, Manitoba.

87894 Jan. 25—Authorizing the City of Fort William to construct Walsh Street across the right-of-way of the C.N.R. Fort William, Ontario.

87895 Jan. 26—Approving clearances of C.N.R. siding serving the Canadian Bechtel Limited, known as Phoenix Tube and Pipe Company Mill No. 1 at Edmonton, Alberta.

87896 Jan. 26—Approving Traffic Agreement between The Bell Telephone Company of Canada and The Plummer, Aberdeen and Galbraith Rural Telephone Association Limited.

87897 Jan. 26—Permitting the removal of slow order at C.N.R. crossing east of station at Turtleford, Saskatchewan.

87898 Jan. 26—Permitting removal of slow order at C.N.R. crossing at Gibbons, Alberta.

87899 Jan. 26—Permitting removal of slow order at C.N.R. crossing at Broadway Avenue, Montreal East, Quebec.

87900 Jan. 26—Permitting removal of slow order at C.N.R. crossing of Government Street east of station at Fort Saskatchewan, Alberta.

87901 Jan. 26—Permitting the removal of slow order at C.P.R. crossing of Donald Street, North Battleford, Saskatchewan.

87902 Jan. 26—Authorizing the C.P.R. to operate its trains under an overhead bridge, Township of West Oxford, Ontario.

87903 Jan. 26—Authorizing the C.N.R. to operate the bridge over the west branch of the Severn River, Ontario.

87904 Jan. 26—In the matter of application of The Toronto, Hamilton, and Buffalo Rly. Co. for an order extending the time within which it is required by Order No. 86814 to install certain protection at the crossing of its railway and Smithville Station Road, Ontario.

87905 Jan. 26—In the matter of approval of plan submitted to the C.P.R. by North Star Oil Limited, showing proposed location of storage tanks, etc. at Elfros, Saskatchewan.

87906 Jan. 26—Amending Order No. 87714 in the matter of accident at the C.N.R. crossing west of station at Kelliher, Saskatchewan.

87907 Jan. 26—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks at Woodside, Nova Scotia.

87908 Jan. 26—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Grandview, Manitoba.

87909 Jan. 26—In the matter of approval of plan submitted to the C.N.R. by the Erickson Consumers Co-operative Ltd., showing proposed location of storage tanks at Erickson, Manitoba.

87910 Jan. 26—Permitting the removal of slow order at C.N.R. crossing east of station at Ituna, Saskatchewan.

87911 Jan. 26—Permitting the removal of slow order at C.P.R. crossing north of station at Virden, Manitoba.

87912 Jan. 27—In the matter of application of the C.N.R. and the C.P.R. for authority to operate their trains over the siding constructed by The Toronto Harbour Commissioners to serve A. R. Clarke & Company Limited, Toronto, Ontario.

87913 Jan. 27—In the matter of approval of plan submitted to the C.N.R. by Canadian Petrofina Limited, showing proposed location of storage tanks, etc. at Huntsville, Ontario.

87914 Jan. 27—Permitting the removal of slow order at C.P.R. crossing south of station in the Village of Shelburne, Ontario.

87915 Jan. 27—Permitting the removal of slow order at the crossing of La Salle Road and the railway of the Chesapeake and Ohio Railway Company, one-half mile south of station of South Sarnia, Ontario.

87916 Jan. 27—In the matter of application of C.N.R. for an order extending the time within which they were required by Order No. 86733 to install certain protection at the first crossing north of the station at Hilden, Nova Scotia.

87917 Jan. 27—In the matter of approval of plan submitted to the Quebec Central Railway Company, by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Ste. Germaine, Quebec.

87918 Jan. 27—In the matter of application of C.P.R. for an order extending the time within which it is required by Order No. 85975 to install certain protection at the crossing of Jacques Cartier Street and its railway at mileage 0·2 Stanbridge Subdivision, Quebec.

87919 Jan. 27—In the matter of application of the C.N.R. for an order extending the time within which they were required by Order No. 86725 to install certain protection at the crossing of their railway and the highway at mileage 16·49, Dartmouth Subdivision, Eastern Passage, Nova Scotia.

87920 Jan. 30—In the matter of application of the C.N.R. for an order extending the time within which they are required by Order No. 86717 to install certain protection at the crossing of County Line Road, west of the station at Hanover, Ontario.

87921 Jan. 30—Authorizing the C.N.R. to use the bridge at mileage 16·9 Sherbrooke Subdivision, Quebec.

87922 Jan. 30—In the matter of filing of tariffs by The Bell Telephone Company of Canada.

87923 Jan. 30—In the matter of application of the Ontario Department of Highways for an order authorizing the construction of an overhead bridge at the crossing of Lower Middle Road and the C.N.R. at mileage 18·78 Oakville Subdivision, Ontario.

87924 Jan. 30—In the matter of application of the City of Brandon, for an order authorizing the installation of automatic protection at C.N.R. crossing of Sixth Street, Brandon, Manitoba.

87925 Jan. 30—In the matter of application of the City of Edmonton, Alberta, for installation of automatic protection at the crossing of 97th Street and the C.N.R., Edmonton, Alberta.

87926 Jan. 30—In the matter of application of the Alberta Department of Highways for installation of automatic protection at the crossing of Highway No. 9 and the C.N.R. near Munson Junction, Alberta.

87927 Jan. 30—Permitting the removal of slow order at C.N.R. crossing at mileage 17·7, Chester Subdivision, Nova Scotia.

87928 Jan. 30—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing proposed location of storage tanks, etc. at Kelliher, Saskatchewan.

87929 Jan. 30—Permitting the removal of slow order at C.N.R. crossing known as Round Lake Highway crossing west of the Village of Killaloe, Ontario.

87930 Jan. 30—In the matter of application of the County of Welland for authority to construct West Side Road across the C.N.R. by means of an overhead bridge in the County of Welland, Ontario.

87931 Jan. 30—In the matter of the application of the Township of North York, Ontario, for installation of automatic protection at the crossing of York Mills Road and the C.N.R. in the Township of North York, Ontario.

87932 Jan. 30—Approving operation of the C.P.R. over private sidings serving Collins and Aikman Company, in the Town of Farnham, Quebec.

87933 Jan. 30—In the matter of approval of plan submitted to the C.N.R. by J. O. Soucy, Inc., showing proposed location of storage tanks, etc. at Monet, Quebec.

87934 Jan. 30—In the matter of application of C.P.R. for an order extending the time in which it is required by Order No. 84015, to install automatic protection at the crossing of the C.P.R. and the Trans-Canada Highway at Java, Saskatchewan.

87935 Jan. 30—In the matter of approval of plan submitted to C.N.R. by Champlain Oil Products Limited, showing proposed location of storage tanks at Amos, Quebec.

87936 Jan. 30—In the matter of application of the Quebec Department of Roads for an order authorizing the installation of protection at crossing of C.N.R. and Highway No. 25A, at St. Damien, Quebec.

87937 Jan. 30—Authorizing the Township of Toronto, Ontario, to construct a water main across the company pipe line of the Trans-Northern Pipe Line Company just north of Birchwood Drive.

87938 Jan. 30—In the matter of application of the Alberta Department of Highways for an order authorizing the construction of the highway across the C.N.R. by means of an overhead bridge at mileage 33·4 Viking Subdivision.

87939 Jan. 30—In the matter of application of the C.P.R. for an order extending the time in which it is required by Order No. 85218 to construct an industrial track at mileage 2·0 Macleod Subdivision, Calgary, Alta.

87940 Jan. 30—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tank, etc. at Roland, Manitoba.

87941 Jan. 30—In the matter of application of Charles Sanders for a licence under section 10 of the Transport Act.

87942 Jan. 31—In the matter of consideration of installation of automatic protection at crossing of C.N.R. and Balaclava Street, St. Thomas, Ontario.

87943 Jan. 31—Approving Traffic Agreement between The Bell Telephone Company of Canada and Telephone d'Harricana et Gatineau Limitee.

87944 Jan. 31—Authorizing the Town of Mount Royal, Quebec, to construct a pedestrian overpass across the C.N.R. at Russell Avenue, Mount Royal, Quebec.

87945 Jan. 31—Approving operation of C.P.R. trains over private siding serving S. C. Johnson & Son Limited, Brantford, Ontario.

87946 Jan. 31—Relieving C.P.R. from erecting right-of-way fencing between certain mileages on its Hardisty Subdivision, Alberta.

87947 Jan. 31—Authorizing the C.N.R. to close their agency station at Waubaushene, Ontario.

87948 Jan. 31—In the matter of application of the British Columbia Department of Public Works for an order authorizing the construction of the highway across the C.P.R. by means of an overhead bridge at mileage 22·22 Nelson Subdivision, British Columbia.

87949 Jan. 31—In the matter of application of the City of London, Ontario, for the installation of improved lighting on the gates at the crossing of Burwell Street and the C.N.R.

87950 Jan. 31—In the matter of application of the City of Brandon, Manitoba, for an order authorizing installation of automatic protection at the crossing of the C.N.R. and Eighteenth Street, Brandon, Manitoba.

87951 Jan. 31—In the matter of application of the New Brunswick Department of Public Works for installation of automatic protection at the crossing of the highway and the C.N.R. at mileage 71·25 Sussex Subdivision, New Brunswick.

87952 Jan. 31—In the matter of application of the Municipality of Maria, Quebec, for an order authorizing the C.N.R. to improve the sight lines at the crossing of the highway and C.N.R. at mileage 51·73 Cascapedia Subdivision, Quebec.

87953 Jan. 31—In the matter of the application of the Beaconsfield Heights Association for an order authorizing the C.N.R. to improve the approaches at the crossing of St. Charles Road and the C.N.R. Beaconsfield, Quebec.

87954 Jan. 31—In the matter of application of the County of Hastings for an order directing the C.N.R. to improve the approach grades at crossing of highway and the C.N.R. mileage 6·52 Campbellford Subdivision, Ontario.

87955 Jan. 31—In the matter of application of the Municipality of the Township of Douglas, Quebec, for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and Highway No. 6 near Seal Cove, Quebec.

87956 Jan. 31—In the matter of application of the Township of Montreal South, Quebec, for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and St. Helene Street, Montreal South, Quebec.

87957 Jan. 31—In the matter of application of the Township of New Richmond, Quebec, for an order authorizing the installation of automatic protection at the C.N.R. crossing and Highway No. 6, Black Capes, Quebec.

87958 Feb. 1—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the C.P.R. under section 8.

87959 Feb. 1—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages of its La Riviere Subdivision, Manitoba.

87960 Feb. 1—In the matter of application of the Westspur Pipe Line Company for an order approving plan showing the location of its company pipe line in the Rural Municipality of Benson and Cimri, Sask.

87961 Feb. 1—In the matter of application of the City of Quebec for an order authorizing the installation of protection at crossing of the C.N.R. and Savane Road, Quebec City, Quebec.

87962 Feb. 1—Authorizing the Great Northern Railway Company to remove the station buildings at South Nelson, British Columbia.

87963 Feb. 1—In the matter of application of the City of London, Ontario, for improvement in the protection at the crossing of the C.N.R. and Ridout Street, London, Ontario.

87964 Feb. 1—In the matter of the application of the Great Northern Railway Company for an order authorizing the installation of automatic protection at the crossing at Rupert St., Vancouver, British Columbia.

87965 Feb. 1—In the matter of the application of City of Peterborough, Ontario, for installation of automatic protection at the crossing of the intersection of Perry Street and Aylmer Street and the C.N.R.

87966 Feb. 1—Authorizing the United Suburban Gas Company Limited, to construct a production line across the company oil pipe line of the Trans Northern Pipe Line Company, Oakville, Ontario.

87967 Feb. 1—Authorizing the Township of North York, Ontario, to construct a concrete storm sewer across the company pipe line of the Trans Northern Pipe Line Company in Don Mills Development, Township of North York, Ontario.

87968 Feb. 1—Permitting the removal of slow order at C.P.R. crossing of the highway at mileage 25·89 Expanse Subdivision.

87969 Feb. 1—In the matter of application of the Town of Prescott. Ontario, for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and Sophia Street, Prescott, Ontario.

87970 Feb. 1—In the matter of the application of the Town of Merritton, Ontario, for an order authorizing the installation of automatic protection at the crossing of Niagara, St. Catharines and Toronto Railway and Merritt Street, Merritton, Ontario.

87971 Feb. 1—In the matter of proposed improvements to the sight lines at the crossing of the C.N.R. and the highway north of Gormley, Ontario.

87972 Feb. 1—In the matter of application of the Toronto and York Roads Commission for the installation of protection at the crossing of the C.N.R. and the highway north of station at Pefferlaw, Ontario, mileage 55·5 Bala Subdivision.

87973 Feb. 1—In the matter of application of the Quebec Department of Roads for installation of automatic protection at the C.N.R. crossing at Poirier Street and the C.N.R. in the Municipality of Charny, Quebec.

87974 Feb. 1—In the matter of application of City of Medicine Hat, Alberta, for an order authorizing the construction of highway across the right-of-way of C.P.R. by means of a subway at First Street, Medicine Hat, Alberta.

87975 Feb. 1—In the matter of application of the City of Regina, for installation of automatic protection at the crossing of Albert Street and the C.N.R. in the City of Regina, Saskatchewan.

87976 Feb. 1—In the matter of application of Town of Laval West, Quebec, for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and Highway No. 38, Quebec.

87977 Feb. 2—Authorizing The United Suburban Gas Company Limited, to construct a gas line across the company pipe line of the Trans Northern Pipe Line Company in the Town of Oakville, Ontario.

87978 Feb. 2—Permitting the removal of slow order at the crossing of Highway No. 11 and the Algoma Central & Hudson Bay Railway at Wyborn, Ontario.

87979 Feb. 2—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Pense, Saskatchewan.

87980 Feb. 2—In the matter of approval of plan submitted to C.P.R. by Manitou Lake Co-Operative Association Limited, showing proposed location of storage tanks, etc., at Neilburg, Saskatchewan.

87981 Feb. 2—Authorizing The United Suburban Gas Company Limited to construct a gas line across the company pipe line of the Trans Northern Pipe Line Company, Oakville, Ontario.

87982 Feb. 2—In the matter of application of the C.N.R. for approval of revised Plan No. SD-3068-B, showing protection as installed at the crossing of the C.N.R. and Depot Street, Grimsby, Ontario.

87983 Feb. 2—In the matter of application of the Town of Port Colborne for installation of automatic protection at Steele Street and the C.N.R., Port Colborne, Ontario.

87984 Feb. 2—In the matter of application of the C.N.R. for an order extending the time in which they were required by Order No. 86062 to install certain protection at crossing of C.N.R. and Greenwood Avenue, Toronto, Ontario.

87985 Feb. 2—Authorizing The United Suburban Gas Company Limited to construct a gas line across the company pipe line of the Trans Northern Pipe Line in the Town of Oakville, Ontario.

87986 Feb. 2—Approving plan showing location of Westspur Pipe Line Company's trunk pipe line from Alida terminal to Frobisher terminal, Sask.

87987 Feb. 2—Approving plans showing location of Westspur Pipe Line Company's pipe line from Alida Terminal to Nottingham Terminal, Sask.

87988 Feb. 2—In the matter of application of the Corporation of Mann, Quebec, for an order authorizing the installation of automatic protection at C.N.R. crossing at Peron Boulevard, Quebec.

87989 Feb. 2—Approving plan showing the location of the deviations in the West-Coast Transmission Company Limited pipe line in the Province of British Columbia.

87990 Feb. 3—In the matter of application of the City of Sudbury, Ontario, for an order authorizing the installation of automatic protection at C.P.R. crossing and Douglas Street, Sudbury, Ontario.

87991 Feb. 3—In the matter of tariffs filed under the Maritime Freight Rates Act and Order No. 87596 approving tolls published in Tariff C.T.C. No. E. 5230 filed by the C.P.R.

87992 Feb. 3—Rescinding Order No. 55323, in the matter of the application of the C.P.R. for approval of layout of gasoline unloading standard which Imperial Oil Limited desires to substitute at Stewiacke, Nova Scotia.

87993 Feb. 3—In the matter of approval of plan submitted to the Northern Alberta Railways Company by Imperial Oil Limited showing proposed location of its office buildings at Faust, Alberta.

87994 Feb. 3—In the matter of application of the Alberta Department of Highways for installation of automatic protection across Highway No. 3 and the C.P.R. near Maunsell, Alberta.

87995 Feb. 3—In the matter of application of the C.N.R. for an order authorizing them to install certain protection at the crossing of the C.N.R. and 115th Avenue, Edmonton, Alberta.

87996 Feb. 3—Authorizing the C.P.R. to operate its trains under the overhead bridge at mileage 70·85 Shuswap Subdivision, British Columbia.

87997 Feb. 3—Authorizing the C.N.R. to relocate a yard lead track across Modeland Road between Lots 15 and 16, Concession 4, Township of Sarnia, Ontario.

87998 Feb. 3—In the matter of application of the Vanderhoof and District Board of Trade for an order authorizing the installation of automatic protection at the crossing of Burrard Street and the C.N.R. at Vanderhoof, British Columbia.

87999 Feb. 3—In the matter of the application of the Alberta Department of Highways for an order authorizing the construction of the highway across right-of-way of the C.N.R. by means of an overhead bridge at mileage 35·20 Brule Subdivision, Alberta.

88000 Feb. 3—In the matter of application of the Alberta Department of Highways for permission to widen its highway where it crosses the C.P.R. at mileage 30·9 Macleod Subdivision, Alberta.

88001 Feb. 3—In the matter of the application of the Alberta Department of Highways for an order authorizing the installation of automatic protection at the crossing of the C.N.R. and Highway No. 14 mileage 4·32 Camrose Subdivision, Alberta.

88002 Feb. 3—In the matter of application of the Corporation of the Township of Ontario for installation of automatic protection at the crossing of C.P.R. and County Road No. 1 in the Township of Pickering, Ontario, mileage 84·3 Oshawa Subdivision.

88003 Feb. 3—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited, showing proposed location of storage tanks at Plunkett, Saskatchewan.

88004 Feb. 3—In the matter of application of the County of Wellington, for an order authorizing the installation of automatic protection at the C.N.R. crossing of highway just south of the station at Elora, Ontario.

88005 Feb. 3—In the matter of tariffs filed under the provisions of the Maritime Freight Rates Act and Order No. 87472, dated November 25, 1955, approving tolls published in Tariff C.T.C. No. E. 5117 filed by the C.P.R.

88006 Feb. 3—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. E. 5182 filed by the C.P.R. under Section 8.

88007 Feb. 3—In the matter of approval of plan submitted to C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks, etc. at Smithers, British Columbia.

88008 Feb. 3—In the matter of approval of plan submitted to C.P.R. by Imperial Oil Limited showing proposed location of storage tanks, etc. at Francis, Saskatchewan.

88009 Feb. 3—In the matter of application of the Rural Municipality of Ferrell, Saskatchewan, for an order authorizing it to provide sight lines where the road allowance crosses the C.N.R. between the southwest quarter of Section 15, Township 12, Range 25, West 2nd Meridian, and the southeast quarter of Section 16, Township 12, Range 25, West 2nd Meridian, Saskatchewan.

88010 Feb. 3—Requiring the C.N.R. to install certain protection at crossing of the highway and the C.N.R. Township of Whitchurch, Ontario, mileage 32·05 Bala Subdivision.

88011 Feb. 3—In the matter of application of the Town of Wapella, Saskatchewan, for authority to construct First Avenue across the C.P.R.

88012 Feb. 3—In the matter of application of the C.N.R. for an order authorizing the installation of track circuits on all tracks at the crossing of the C.N.R. and Main Street, Alexandria, Ontario.

88013 Feb. 3—In the matter of application of the Township of Darlington, Ontario, for installation of automatic protection at the crossing of the C.P.R. and the highway known as Wade's Crossing.

88014 Feb. 3—Authorizing the C.P.R. to operate under the overhead bridge at mileage 26·1 Thompson Subdivision, Kamloops District, British Columbia.

88015 Feb. 3—In the matter of application of the Township of Sandwich East, Ontario, for installation of automatic protection at the C.P.R. crossing at Lesperance Road between the Town of Tecumseh and King's Highway No. 2, Ontario.

88016 Feb. 3—In the matter of consideration of additional protection at the C.P.R. crossing and Tecumseh Road, Windsor, Ontario.

88017 Feb. 3—In the matter of application of the C.N.R. for an order authorizing the installation of protection at the crossing of highway near Winfield, British Columbia.

88018 Feb. 3—In the matter of improvement of the automatic protection at the crossing of the C.N.R. and the highway east of the station at l'Islet, Quebec.

88019 Feb. 3—In the matter of application of the Alberta Department of Highways for installation of automatic protection at the crossing of Highway No. 16 and the C.N.R. at mileage 2·28 Camrose Subdivision, Alberta.

88020 Feb. 3—In the matter of approval of plan submitted to C.N.R. by W. J. Kent and Company Limited, showing proposed location of storage tanks, etc., at Bathurst, New Brunswick.

88021 Feb. 3—In the matter of approval of plan submitted to C.N.R. by Geco Mines Limited showing proposed location of storage tanks, etc., at Geco, Ontario.

88022 Feb. 3—In the matter of approval of plan submitted to C.N.R. by Sylvania Electric (Canada) Limited showing proposed location of storage tanks, etc., at Drummondville, Quebec.

88023 Feb. 3—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Parkman, Saskatchewan.

88024 Feb. 6—In the matter of application of the Saskatchewan Department of Highways and Transportation for approval of plan showing extension of the retaining wall which is part of the overhead bridge across the C.P.R. at mileage 1·6 Indian Head Subdivision, Sask.

88025 Feb. 6—In the matter of application of the C.P.R. for approval of plan showing protection at the crossing of Highway No. 3 at mileage 16·93 Port Burwell Subdivision, Ontario.

88026 Feb. 6—Authorizing the C.P.R. to operate its passenger trains over the bridge near Robson, British Columbia, at a speed not exceeding 30 miles per hour.

88027 Feb. 6—Authorizing the C.N.R. to construct a bridge over the chute connecting two lakes to be known as Second Opawica Lake Bridge at mileage 85·7 from Beattyville, on the Beattyville to Chibougamau Branch Line.

88028 Feb. 6—Authorizing the Ontario Department of Highways to widen the overhead bridge where it crosses the C.P.R. in the Township of South Orillia, Ontario.

88029 Feb. 7—In the matter of approval of plan submitted to the C.N.R. by the British American Oil Company Limited showing proposed location of platforms on warehouse at Prince Albert, Saskatchewan.

Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1956.

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The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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ORDER No. 88063

In the matter of Order No. 87102, dated October 5th, 1955, authorizing the Canadian Pacific Railway Company to remove the station agent and appoint a caretaker at Griswold, in the Province of Manitoba:

File No. 4205·1377

TUESDAY, the 7th day of February, A.D. 1956.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

L. J. KNOWLES, *Commissioner.*

Upon hearing the application for a review of Order No. 87102, dated October 5th, 1955, at Griswold, in the Province of Manitoba, on Friday, the twenty-seventh day of January, 1956, in the presence of representatives of the citizens and various associations of the community of Griswold, and of Counsel for the Canadian Pacific Railway Company, and what was alleged—

It is ordered that Order No. 87105, dated October 9th, 1955, be, and it is hereby, suspended for an indefinite period, the said suspension to continue unless and until otherwise determined by the Board.

JOHN D. KEARNEY,
Chief Commissioner.

68029—1

ORDER No. 88145

In the matter of the applications of British Columbia Lumber Manufacturers Association; Consolidated Red Cedar Shingle Association; Plywood Manufacturers Association of B.C.; Interior Lumber Manufacturers Association; Northern Interior Lumbermen's Association; Alberta Freight Bureau; Revelstoke Sawmill Company Limited; Beaver (Alberta) Lumber Limited; and W. H. Clark Lumber Company Limited, for suspension of certain tariff schedules, applicable on lumber and related articles, filed to become effective February 25, 1956:

File No. 26901·62·7

MONDAY, the 20th day of February, A.D. 1956.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

L. J. KNOWLES, *Commissioner.*

Upon consideration of objections submitted to the Board—

It is ordered that the following tariff schedules filed to become effective February 25, 1956, be, and they are hereby, suspended pending further investigation by the Board.

Canadian National Railways
- Supplement 13 to C.T.C. No. W.2101
- Supplement 3 to C.T.C. No. W.2227
- Supplement 16 to C.T.C. No. W.2228
- Supplement 16 to C.T.C. No. W.2229
- Supplement 5 to C.T.C. No. W.2230
- Items 475-C, 480-D, 1692-A, 1695-B, 1697-A and 2645-A of Supplements 67 and 69 to C.T.C. W.2218.

Canadian Pacific Railway Company
- Supplement 17 to C.T.C. No. W.4201
- Item 2750-D of Supplements 43, 44 and 46 to C.T.C. No. W.4198.

Canadian Freight Association
- Supplement 144 to Agent J. F. Flynn's Tariff C.T.C. No. 101
- Supplements 89 and 90 to Agent J. F. Flynn's Tariff C.T.C. No. 529.

British Columbia Electric Railway Company Ltd.
- Supplement 21 to C.T.C. No. 360.

Esquimalt and Nanaimo Railway Company
- Supplement 17 to C.T.C. No. 858.

Great Northern Railway Company
- Supplement 38 to C.T.C. No. 2385
- Supplement 3 to C.T.C. No. 2470

Northern Alberta Railways Company
- Supplement 19 to C.T.C. No. 78.

Vancouver and Lulu Island Railway Company
- Supplement 55 and Column 11 of Section 3 of Supplement 56 to C.T.C. No. 47.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

88030 Feb. 9—Permitting removal of slow order at C.N.R. crossing of King Street, Kitchener, Ontario.

88031 Feb. 9—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Brucefield, Ontario.

88032 Feb. 7—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tank at Carrot River, Saskatchewan.

88033 Feb. 7—Permitting removal of slow order at C.P.R. crossing of St. Patrick Street, Ottawa, Ontario.

88034 Feb. 7—Permitting removal of slow order at C.N.R. crossing of Islington Avenue, Weston, Ontario.

88035 Feb. 7—In the matter of approval of plan submitted to the C.N.R. by the Chaudane Gas Company Limited, showing proposed location of storage tank, etc. at Sudbury, Ontario.

88036 Feb. 7—Permitting removal of slow order at C.N.R. crossing north of station at Blackburn, Quebec.

88037 Feb. 7—Permitting removal of slow order at C.N.R. crossing of Mill Street, Listowel, Ontario.

88038 Feb. 7—Approving under the Maritime Freight Rates Act, tolls published in Supplements to tariffs, filed by the Canadian Freight Association under sections 3 and 8.

88039 Feb. 7—Permitting removal of slow order at C.N.R. crossing at Collett, New Brunswick.

88040 Feb. 7—Permitting the removal of slow order at C.P.R. crossing at Marwayne, Alberta.

88041 Feb. 8—Permitting the removal of slow order at C.N.R. crossing and Viau Street, Montreal, Quebec.

88042 Feb. 8—In the matter of application of the Township of LeMoyne, Quebec, for an order authorizing the installation of automatic protection at C.N.R. crossing and Cote Noir Road.

88043 Feb. 8—In the matter of application of the City of Sudbury, Ontario, for an order authorizing the installation of protection at C.N.R. crossing and Melvin Avenue.

88044 Feb. 8—In the matter of application of the township of Gladstone, Manitoba, for additional protection at the C.N.R. and C.P.R. crossings of Morris Street.

88045 Feb. 8—Authorizing the C.N.R. to reconstruct the subway at Girouard Street, St. Hyacinthe, Quebec.

88046 Feb. 8—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocker plant near Gladstone, Manitoba.

88047 Feb. 9—In the matter of application of the Department of Public Works of the Province of New Brunswick for installation of protection at the crossing of Route No. 11 and the C.N.R. near Caraquet Station, New Brunswick.

88048 Feb. 9—In the matter of application of the Township of Sutton, Quebec, for an order authorizing the installation of automatic protection at the crossing of the highway and the railway of the C.P.R. at mileage 35·96 Newport Subdivision.

88049 Feb. 9—In the matter of approval of plan submitted to the C.P.R. by Anglo American Exploration Limited, showing proposed location of storage tanks, etc. at Gull Lake, Saskatchewan.

88050 Feb. 9—Approving clearances on the New York Central Railroad Co. siding serving J. J. Heinz Company of Canada Limited at Leamington, Ontario.

88051 Feb. 9—Authorizing the C.N.R. to operate over the steel span of the passing track at mileage 41·2 Grimsby Subdivision, Ontario.

88052 Feb. 9—Authorizing the C.N.R. to use the bridge at mileage 15·4 Hagersville Subdivision, Ontario.

88053 Feb. 9—Authorizing the Ontario Department of Highways to construct Highway No. 2 across the right-of-way of the C.N.R. in the Township of Matilda, Ontario.

88054 Feb. 9—Authorizing the C.N.R. to use the bridge over Hoards Creek at mileage 23·3 Campbellford Subdivision, Ontario.

88055 Feb. 9—Approving under the Maritime Freight Rates Act tolls published in Supplements to tariffs filed by the Canadian Freight Association under sections 3 and 8.

88056 Feb. 9—In the matter of application of the township of Brockville, Ontario, for an order authorizing the installation of automatic protection at the crossing of the C.N.R. at North Augusta Road, Ontario.

88057 Feb. 9—In the matter of application of the C.N.R. for authority to install automatic protection at the crossing of St. George Street, St. Thomas, Ontario.

88058 Feb. 9—In the matter of application of village of Val David. Quebec, for an order authorizing installation of protection at the C.P.R. crossing of Church Street.

88059 Feb. 9—Authorizing the C.N.R. to remove the station building at Hadlow, Quebec.

88060 Feb. 9—Permitting the removal of slow order at C.N.R. crossing of King Street, Sherbrooke, Quebec.

88061 Feb. 9—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian National Railways under section 3.

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Edmond Cloutier, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1956.

The Board of Transport Commissioners for Canada

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